

Criminal Offender Records Information Request Fees

1 SECTION 4. Chapter 6 of the General Laws is hereby amended by striking out section 172A, as
2 appearing in section 12 of chapter 149 of the acts of 2004, and inserting in place thereof the following
3 section:—
4

5 Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for
6 criminal offender record information. A fee shall not be assessed for a request from a victim of a crime, a
7 witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a
8 governmental agency, or from other persons whom the board may exempt. Certified agencies that provide
9 services to the elderly, children, victims of crime, medically infirm persons, or the physically or mentally
10 challenged shall be assessed a fee of \$5 in addition to the agency's fee rate on June 30, 2003, unless
11 exempted by the board. The criminal history systems board shall assess a fee of \$25 for each request for
12 criminal offender record information from an individual seeking to obtain criminal offender record
13 information pertaining to himself; provided, however, that if a person shall be found indigent, as defined in
14 section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the
15 General Fund, excluding a nominal processing fee for online e-payments.

16 The board shall process any request within 30 days of the request. The board shall charge an
17 additional \$10 for any expedited request for criminal record information which shall be processed within 14
18 days of the request. No fee shall be charged if the board does not process a request within the 30 day or 14
19 day time period.

Bulk Purchasing of Prescription Drugs

1 SECTION 5. Chapter 6A of the General Laws is hereby amended by inserting after section 16B,
2 as so appearing, the following section:—

3 Section 16B½. (a) Notwithstanding any general or special law to the contrary, the secretary of
4 the executive office of health and human services, in consultation with the secretary of administration and
5 finance and the secretary of public safety shall develop a coordinated, aggregate prescription drug
6 procurement plan to manage and administer the disbursement, payment and reimbursement of prescription
7 drugs, including claims processing, adjudication and client services for all pharmacy benefit plans funded
8 or subsidized, in whole or in part by the commonwealth. The aggregate procurement plan shall separately
9 manage benefits, rules and functions regarding drug utilization and cost for programs subject to Section
10 1927(a)(1) of the Social Security Act, Title XIX. This plan shall maximize cost savings, efficiencies,
11 enhance affordable access to prescriptions and be designed to improve health outcomes, benefits and
12 coverage in the pharmacy benefit plans.

13 (b) Notwithstanding any general or special law to the contrary, as part of the aggregate procurement plan,
14 the secretary shall seek competitive bids from third party pharmacy benefits managers who are interested in
15 providing procurement services to the commonwealth. The secretary shall consider those pharmacy
16 benefits managers with experience in the administration of publicly-funded health benefit plans and who
17 are qualified to assess and manage the clinical efficacy and cost effectiveness of the pharmacy benefit plans
18 on behalf of the commonwealth. Nothing in this section shall preclude a not-for-profit entity from
19 participating in the competitive bid process; provided, that during such competitive bid process, a not-for-
20 profit pharmacy benefit manager shall demonstrate the capacity to provide the same level of service
21 quality, assessment and ability to manage the clinical efficacy and cost effectiveness of the administration
22 of such aggregate procurement plan as that of a for-profit pharmacy benefit manager; provided further, that
23 the secretary may establish an inter-governmental service agreement between or among agencies of the
24 commonwealth for the provision of pharmacy benefit management services if said not-for-profit pharmacy
25 benefit manager is selected for the provision of such services; and provided further, that the secretary may
26 request the aggregate pharmacy benefit manager plan to disclose information regarding its marketing
27 practices.

28 (c) A contract currently in existence with any agency or pharmacy benefits management company shall not
29 be renewed or extended in a manner inconsistent with this section, but, a contract in existence with any
30 agency or pharmacy benefits management company shall not be terminated before its expiration date if the
31 termination would cause substantial financial cost or service interruption to the commonwealth.

(d) The secretary shall ensure that the aggregate procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively manage the pharmacy plans of the commonwealth.

(e) The secretary shall implement the aggregate procurement plan not later than November 5, 2005 and shall submit, on April 15 of each year, a report detailing the coordinated aggregate or bulk purchasing arrangement results for the previous year to the house and senate clerks, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing. The report shall include, but not be limited to, a review of the aggregate procurement plan's achievement relative to:

(1) cost savings achieved during the previous fiscal year; (2) administrative costs relating to the management of the program for the previous fiscal year; (3) any recommendations for enhancing the benefits provided by each plan, savings costs, reducing inefficiencies and improving access and quality; and, (4) a cost-benefit analysis of the inclusion of other governmental entities, including but not limited to county, municipal and quasi-governmental entities within the aggregate pharmaceutical procurement plan.

(e) The secretary shall implement the aggregate procurement plan not later than November 5, 2005 and shall submit, on April 15 of each year, a report detailing the coordinated aggregate or bulk purchasing arrangement results for the previous year to the house and senate clerks, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on healthcare. The report shall include, but not be limited to, a review of the aggregate procurement plan's achievement relative to:

(1) cost savings achieved during the previous fiscal year; (2) administrative costs relating to the management of the program for the previous fiscal year; (3) any recommendations for enhancing the benefits provided by each plan, savings costs, reducing inefficiencies and improving access and quality; and, (4) a cost-benefit analysis of the inclusion of other governmental entities, including but not limited to county, municipal and quasi-governmental entities within the aggregate pharmaceutical procurement plan.

Massachusetts Office of Dispute Resolution

SECTION 6. Section 51 of chapter 7 of the General Laws is hereby repealed.

Separate Audit Guidelines Codification

SECTION 7. Section 9A of chapter 7A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

The comptroller shall publish standards for timely submission of audited financial statements by other audited entities that are reported in the statutory basis financial report and the comprehensive annual financial report of the commonwealth in conformity with the standards. The statements from the entities as determined by the comptroller shall be submitted in accordance with the standards.

MWRA Fee Exemption I

* SECTION 8. [MWRA-INM] Section 73 of chapter 10 of the General Laws, as amended by chapter 408 of the acts of 2004, is hereby further amended by adding the following subsection:-

(h) Sections 5D and 6B of chapter 29 shall not apply to the Trust.

Repeal of Children's and Seniors' Health Care Assistance Fund

SECTION 9. Section 2FF of chapter 29 of the General Laws is hereby repealed.

Board of Registration in Medicine Trust Fund

SECTION 10. Section 35M of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "; but any unexpended balance at the end of the fiscal year shall revert to the General Fund".

Quality in Health Professions Trust Fund I

1 SECTION 11. Section 35X of said chapter 10, as so appearing, is hereby amended by inserting,
2 after the fourth sentence, the following sentence:- The board shall spend monies deposited into the trust
3 fund exclusively for the purposes set forth in the preceding sentence.

Quality in Health Professions Trust Fund II

1 SECTION 12. Said section 35X of said chapter 10, as so appearing, is hereby further amended by
2 striking out the seventh sentence.

Smart Growth School Cost Reimbursement

1 SECTION 13. The General Laws are hereby amended by inserting after chapter 40R the following
2 chapter:-
3

CHAPTER 40S SMART GROWTH SCHOOL COST REIMBURSEMENT

4
5
6
7
8 Section 1. As used in this chapter, the following terms shall have the following meanings:
9

10 “Additional chapter 70 aid”, an amount equal to the actual increase in chapter 70 aid payments that
11 is directly attributable to the eligible students in the school district.
12

13 “Average actual school spending per student”, the actual, average amount expended per pupil in a
14 municipality, or in a school district for which the municipality shares the costs, as the case may be, for the
15 immediately preceding fiscal year, as determined by the department of education.
16

17 “Education percentage”, the average across all communities in the commonwealth of total
18 education expenditures in relation to total municipal expenditures as certified as of the end of the preceding
19 fiscal year by the department of revenue. This calculation shall be made by summing the education
20 percentages in every community and then dividing by the number of communities.
21

22 “Eligible students”, those children living in new smart growth development that attend local public
23 or charter schools in kindergarten through grade 12.
24

25 “Local smart growth revenues for education”, the education percentage times the sum of local smart
26 growth property tax revenues plus local smart growth excise tax revenues, each for the preceding fiscal
27 year.
28

29 “Local smart growth excise tax revenues”, the total excise taxes for the subject year on vehicles
30 garaged at new smart growth development.
31

32 “Local smart growth property tax revenues”, shall be calculated separately for each municipality
33 and shall equal the local levy rate times the amount of assessed valuation due to new smart growth
34 development as certified by the commissioner of revenue pursuant to subsection (f) of section 21C of
35 chapter 59.
36

37 “New smart growth development”, any new residential or commercial development, including the
38 substantial redevelopment of existing properties, subject to the payment of local property taxes that (a)
39 occurs in a smart growth zoning district after the adoption of such zoning by the community, and (b) is
40 permitted under the provisions of the smart growth zoning district. A redevelopment shall be considered

substantial if its cost exceeds 50 per cent of the building's pre-renovation assessed value, or if it constitutes a change in use from non-residential to residential.

"Smart growth zoning district", a zoning district adopted by a community for which the community is eligible for density bonus payments under chapter 40R after approval by the department of housing and community development, and which remains eligible for these payments.

"Total education cost for eligible students", the product of (i) the total number of eligible students in a municipality at the end of the prior fiscal year, and (ii) average actual school spending per student. This calculation shall first be made separately for each school district attended by eligible students, and the results of such calculations shall then be summed.

Section 2. For each fiscal year commencing with fiscal year 2007, any city or town that has established one or more smart growth zoning districts shall receive smart growth school cost reimbursement from the commonwealth pursuant to this section. This reimbursement shall be calculated separately for each municipality and shall be equal to the positive difference, if any, between (i) total education cost for eligible students, and (ii) the sum of local smart growth revenues for education and additional chapter 70 aid.

Children's and Seniors' Fund Technical Change I

SECTION 14. Section 7A of chapter 64C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subsection (c).

Children's and Seniors' Fund Technical Change II

SECTION 15. Section 7B of said chapter 64C, as so appearing, is hereby amended by striking out subsection (c).

Massachusetts Office of Dispute Resolution

SECTION 16. Chapter 75 of the General Laws is hereby amended by inserting after section 45, as so appearing, the following section:—

Section 46. There shall be at the University of Massachusetts at Boston an office of dispute resolution under the supervision and control of a director who shall be appointed by the provost with the approval of the chancellor and concurrence of the board of trustees. The director shall be a person with substantial training and professional experience in dispute resolution, shall maintain complete impartiality with respect to the matters coming before the office of dispute resolution, and shall devote full time to the duties of the office.

The office of dispute resolution shall be available to assist agencies and offices of the executive, legislative, and judicial branches of the commonwealth, as well as any political subdivision or public instrumentality created by the commonwealth or any county, city, or town, hereafter referred to as public agencies, to improve the resolution of disputes that arise within their respective jurisdictions. The office may (a) facilitate the resolution of disputes through provision of impartial mediation and other dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons acting on behalf of the office in the resolution of disputes; (c) conduct educational programs and provide other services designed to reduce the occurrence, scope, complexity, or cost of disputes; (d) design, develop, or operate dispute resolution programs or to assist public agencies to improve or extend their existing dispute resolution programs; and (e) take other action to promote and facilitate dispute resolution by public agencies in the commonwealth. The director may establish reasonable fees to be charged to parties, litigants, or public agencies for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Fees, grants, bequests, gifts, or contributions shall be received by the University of Massachusetts at Boston and deposited in a separate account and shall be expended, without further appropriation, at the direction of the director, with the approval of the provost, for the cost of operation of

26 the office, including personnel. The office may make agreements with public agencies and officers and may
27 contract with other persons, including private agencies, corporations, or associations, to carry out any of the
28 functions and purposes of this section. The office shall annually prepare a report on the activities of the
29 office, including all income and expenditures, and file the report with the house and senate committees on
30 ways and means on or before December 31.

License Plate Transfers to Spouses of Veterans

1 SECTION 17. The fifteenth paragraph of section 2 of chapter 90 of the General Laws, as so
2 appearing, is hereby amended by adding the following sentence:- The surviving spouse of a deceased
3 recipient may elect to retain the distinctive registration plate for personal use upon payment of the
4 established registration fee and an additional \$20 fee until the surviving spouse remarries or fails to renew
5 or cancels the registration.

Technical Correction – Rural Hospital Designation

1 SECTION 18. Section 52 of chapter 111 of the General Laws, as appearing in the 2002 Official
2 Edition, is hereby amended by adding the following definition:-
3 "Rural Hospital", means an acute-care hospital, as defined under section 25B and licensed under
4 this chapter, which: (1) has been designated by the department as a rural hospital based on bed size, city or
5 town population, and population density of the city, town, service area or county as determined by the
6 department through regulation; or (2) is a hospital currently designated as a Critical Access Hospital by the
7 federal Department of Health and Human Services in accordance with federal regulations and state
8 requirements.

Long-Term Care Pharmacies

1 SECTION 19. Section 39C of chapter 112 of the General Laws, inserted by section 306 of chapter
2 26 of the acts of 2003, is hereby amended by inserting after the first sentence the following sentence:—A
3 registered entity shall be considered a retail pharmacy and not a provider of institutional, residential, or
4 long-term care services.

Requiring Public Hearings Under Medicaid

1 SECTION 20. The first paragraph of section 12 of chapter 118E of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- The division
3 or the department of elder affairs, as appropriate, shall adopt regulations, in accordance with chapter 30A,
4 for the administration of its duties and powers and to effectuate the provisions and purposes of this chapter.
5 Regulations which restrict coverage or covered services may be adopted only after public notice and
6 hearing.

Community Spouse Resource Allowance

1 SECTION 21. Section 21A of chapter 118E of the General Laws, as so appearing, is hereby
2 amended by adding the following subsection:-

3 (d) The division shall establish the maximum community spouse resource allowance permissible
4 under 42 U.S.C. section 1396r-5(f)(2).

Pediatric Specialty Unit Definition

1 SECTION 22. Section 1 of chapter 118G of the General Laws is hereby amended by inserting
2 after the definition of "Pediatric Hospital", as so appearing, the following definition:-"Pediatric specialty
3 unit", a level 1 burn and trauma center for pediatrics or a pediatric unit of an acute care hospital in which
4 the ratio of licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20. In

5 calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds, and the
6 total of all licensed hospital beds shall include the total of all licensed acute care hospital beds, consistent
7 with Medicare's acute care hospital reimbursement methodology as put forth in the Provider
8 Reimbursement Manual Part 1, Section 2405.3G.

Intergovernmental Transfers – Administrative Clarification

1 SECTION 23. Section 18 of chapter 118G of the General Laws, as most recently amended by
2 section 171 of chapter 149 of the acts of 2004, is hereby further amended by striking out subsection (o) and
3 inserting in place thereof the following subsection:—

4 (o) Within the Uncompensated Care Trust Fund, there shall be established a medical assistance
5 account, administered by the secretary of the executive office of health and human services, consisting of
6 any funds directed to the commonwealth from public entities and federal reimbursements related to medical
7 assistance payments funded by this account. All amounts credited to this account shall be held in trust and
8 shall be available for expenditure by the secretary of the executive office of health and human services to
9 be used for medical assistance payments to entities authorized by the general court, and for which a public
10 entity has contractually agreed to direct funds to the account. Any amount in excess of such medical
11 assistance payments may be credited to the General Fund and the amount of all such expenditures shall be
12 subject to annual approval by the general court. The maximum payments from the account shall not exceed
13 those permissible for federal reimbursement under Title XIX or Title XXI of the Social Security Act or any
14 successor federal statute. The comptroller may make payments, including payments during the accounts
15 payable period, in anticipation of revenues, including receivables due and collectibles during the months of
16 July and August, and shall establish procedures for reconciling overpayments or underpayments from the
17 account. Such procedures shall include, but not be limited to, appropriate mechanisms for refunding
18 public funds directed to the account and federal reimbursements upon recoupment of any such
19 overpayments. The executive office of health and human services shall ensure that the division of health
20 care finance and policy is informed regarding revenue and expenditure activity within the account and
21 submit to the secretary of administration and finance and the house and senate committees on ways and
22 means a schedule of such payments 10 days before any expenditures, and no funds shall be expended
23 without an enforceable agreement with or legal obligation imposed upon a public entity to make an
24 intergovernmental transfer in an appropriate amount to the account.
25

Department of Agriculture License Renewals I

1 SECTION 24. Section 14B of chapter 129 of the General Laws, as appearing in the 2002 Official
2 Edition, is hereby amended by striking out the third and fourth paragraphs and inserting in place thereof the
3 following paragraph:-

4 No person shall feed garbage to swine without first obtaining a permit therefor from the director,
5 the fee for which shall be determined by the secretary of administration and finance. This permit shall
6 expire 12 months from the effective date of the license unless sooner revoked or renewed.

Department of Agriculture License Renewals II

1 SECTION 25. Section 39B of said chapter 129, as appearing in the 2002 Official Edition, is hereby
2 amended by striking out the first sentence and inserting in place thereof the following sentence:-

3 Every person engaged in operating a guard dog business shall obtain a license therefor from the
4 director, the fee for which shall be determined by the secretary of administration and finance, and the
5 license shall expire 12 months from the effective date of the license unless sooner revoked or renewed.

Department of Agriculture License Renewals III

1 SECTION 26. The first paragraph of section 39C of said chapter 129, as appearing in the 2002
2 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the
3 following sentence:-

4 Every person engaged in the hearing dog business shall obtain a license therefor from the director,
5 the fee for which shall be determined by the secretary of administration and finance, and the license shall
6 expire 12 months from the effective date of the license unless sooner revoked or renewed.

Department of Agriculture License Renewals IV

1 SECTION 27. The first sentence of section 39A of said chapter 129, as appearing in the 2002
2 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the
3 following sentence:-

4 Every person engaged in the business of operating a pet shop shall obtain a license therefor from the
5 director, the fee for which shall be determined by the secretary of administration and finance, and the
6 license shall expire 12 months from the effective date of the license unless sooner revoked or renewed.

Permitting Communities to Join or Form Regional Transit Authorities – I

1 SECTION 28. The first paragraph of section 9 of chapter 161A of the General Laws, as so
2 appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following
3 2 sentences:- Beginning on July 1, 2001, a city or town that is also a member of a regional transit authority
4 or that at any time joins a regional transit authority shall have 100 per cent of the amount assessed for the
5 operation of the regional transit authority credited against its share of the assessment made under this
6 section. The amount credited shall not exceed the total amount of the assessment.

Permitting Communities to Join or Form Regional Transit Authorities – II

1 SECTION 29. Section 3 of chapter 161B of the General Laws, as so appearing, is hereby
2 amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

3 Any city or town, or group or combination of cities or towns, other than a city or town included in
4 the Massachusetts Bay Transportation Authority in which the Authority operates a fixed bus service may
5 and upon compliance with this section, by majority vote of the city council or majority vote of the town
6 meeting or majority vote of any other legislative body, respectively, be made into a body politic and
7 corporate and a political subdivision of the commonwealth under the name of the municipality within the
8 new authority having the greatest population, or under any other appropriate regional name agreed to by a
9 majority of the member municipalities, and followed by the words "Transit Authority".

Permitting Communities to Join or Form Regional Transit Authorities – III

1 SECTION 30. Said section 3 of said chapter 161B, as so appearing, is hereby further amended by
2 striking out the third paragraph and inserting in place thereof the following paragraph:-

3 Any city or town, or group or combination of cities or towns, other than a city or town included in
4 the Massachusetts Bay Transportation Authority in which the Authority operates fixed route bus service or
5 is in an authority established pursuant to section 14 may, by a majority vote of the city council or of the
6 town meeting or majority vote of any other legislative body, respectively, and subject to the approval of the
7 advisory board to a regional transit authority, join an authority which is not separated from the city or town
8 or group or combination of cities and towns by more than 1 other municipality.

State Police Interest Arbitration I

1 SECTION 31. Section 4B of chapter 1078 of the acts of 1973, as most recently amended by
2 section 100 of chapter 412 of the acts of 1991, is hereby further amended by striking out the first 4
3 paragraphs and inserting in place thereof the following 3 paragraphs:-

4 If an employee organization duly recognized as representing the bargaining unit of the uniformed
5 members of the state police is engaged in successor contract negotiations with the employer which have not
6 resulted in an agreement, the employee organization shall petition the board to make an investigation.

7 If, after an investigation, the board determines that the negotiations have not resulted in
8 agreement, the board shall notify the employer and the employee organization that the unresolved issues in
9 the negotiations shall be resolved by an arbitration before an arbitrator selected by the employee
10 organization and the employer pursuant to the voluntary labor arbitration rules and procedures of the
11 American Arbitration Association.

12 The arbitrator so designated shall establish a hearing schedule, shall preside over the hearing and
13 shall take evidence.

State Police Interest Arbitration II

1 SECTION 32. The fifth paragraph of said section 4B of said chapter 1078 of the acts of 1973, as
2 most recently amended by section 1 of chapter 726 of the acts of 1985, is hereby further amended by
3 striking out the second sentence.

State Police Interest Arbitration III

1 SECTION 33. Said fifth paragraph of said section 4B of said chapter 1078 of the acts of 1973, as
2 most recently amended by said section 1 of said chapter 726 of the acts of 1985, is hereby further amended
3 by striking out, in the fifth sentence, the word “arbitrators” and inserting in place thereof the following
4 word:- arbitrator.

State Police Interest Arbitration IV

1 SECTION 34. Section 8A of said chapter 1078 of the acts of 1973, as most recently amended by
2 section 2 of said chapter 726 of the acts of 1985, is hereby repealed.

Workforce Training Fund Extension

1 SECTION 35. Chapter 175 of the acts of 1998 is hereby amended by striking out section 25 and
2 inserting in place thereof the following section:—

3 Section 25. Sections 3A, 20A and 21A shall take effect on December 31, 2008.

Reporting on Civil Commitment Data

1 SECTION 36. The second sentence of section 9 of chapter 249 of the acts of 2000 is hereby
2 amended by striking out the word “quarterly” and inserting in place thereof the following word:-
3 semiannually.

Workforce Training Fund Grants Cap Increase

1 SECTION 37. Chapter 141 of the acts of 2003 is hereby amended by striking out section 79 and
2 inserting in place thereof the following section:—

3 Section 79. Section 11 shall take effect on December 31, 2008.

Parking Garage Revenues

1 SECTION 38. Chapter 26 of the Acts of 2003 is hereby amended in section 439 by striking out
2 the last clause thereof.

MassHealth Enrollment Caps Authorization Repeal

1 SECTION 39. Section 632 of chapter 26 of the acts of 2003 is hereby repealed.

Pay for Public Employees in Active Service in the Armed Forces

1 SECTION 40. Section 21 of chapter 137 of the acts of 2003 is hereby repealed.

Technical Correction – Medicaid Accounts Payable

1 SECTION 41. Item 4000-0300 of section 2 of chapter 149 of the acts of 2004, as amended by
2 section 82 of chapter 352 of the acts of 2004, is hereby further amended by inserting after the words
3 “primary care provided to MassHealth members” the following words:- ; provided further, that
4 notwithstanding any general or special law to the contrary, funds in items 4000-0430, 4000-0500, 4000-
5 0600, 4000-0620, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891,
6 4000-0895, 4000-0990 and 4000-1400 shall not be available during the accounts-payable period of fiscal
7 year 2005, and any unexpended balances in these accounts shall revert to the General Fund on June 30,
8 2005.

Lake Quannapowitt Cleanup

1 SECTION 42. Chapter 149 of the Acts of 2004 is hereby amended by striking out section 232 and
2 inserting in place thereof the following section:-
3

4 Section 232. Section 1A of chapter 152 of the acts of 1997 is hereby amended by inserting after
5 item 1100-7985 the following item:-
6

7 1599-0018 For a grant to the town of Wakefield for the cleanup of Lake Quannapowitt, its
8 shoreline, bank, buffer zone, and land in the vicinity thereof \$500,000

Daly Memorial Rink, Brighton I

1 SECTION 43. The last sentence of the first paragraph of subsection (a) of section 279 of said
2 chapter 149 is hereby amended by striking out the words “and Veterans Memorial Rink, Waltham” and
3 inserting in place thereof the following words:-
4

5 Veterans Memorial Rink, Waltham; and Daly Memorial Rink, Brighton.

Everett and Revere Rinks

1 SECTION 44. Subsection (b) of said section 279 of said chapter 149 is hereby amended by striking
2 out the second paragraph and inserting in place thereof following paragraph:-
3

4 No proposal to lease the Allied Veterans rink in the city of Everett shall be considered responsive,
5 nor shall it be accepted, without a proposal by the same offeror to lease the Cronin rink in the city of
6 Revere, except that a proposal by the city of Everett to lease the Allied Veterans rink, without a proposal to
7 lease the Cronin rink, shall be considered responsive and may be accepted.

Federal Medicaid Assistance Percentage Transfer I

1 SECTION 45. Said chapter 149 is hereby further amended by striking out section 376 and inserting
2 in place thereof the following section:-
3

4 Section 376. Notwithstanding any general or special law to the contrary, an amount equal to
5 \$270,000,000 from the Federal Medicaid Assistance Percentage Escrow Fund, established pursuant to
6 section 1 of chapter 118 of the acts of 2003, shall be designated for expenditure in fiscal year 2005 and
7 fiscal year 2006, and shall not contribute to the calculation of the fiscal year 2004 consolidated net surplus,
8 as calculated by the state comptroller as of June 30, 2004, pursuant to section 5C of chapter 29 of the
9 General Laws. Not later than 15 days after the effective date of this act, the state comptroller shall transfer
10 \$150,000,000 from Federal Medicaid Assistance Percentage Escrow Fund to the General Fund. The
remaining \$120,000,000 shall not contribute to the calculation of the fiscal year 2005 consolidated net

11 surplus, as calculated by the state comptroller as of June 30, 2005, pursuant to section 5C of chapter 29 of
12 the General Laws, and shall be available for expenditure in fiscal year 2006.

Funds Adjustment

1 SECTION 46. Section 380 of said chapter 149 is hereby amended by adding the following
2 sentence:-

3 At the close of fiscal year 2005, of the funds transferred from the Commonwealth Stabilization Fund
4 to the General Fund pursuant to this section, \$236,000,000 shall be held as part of the undesignated balance
5 of the General Fund for expenditure in fiscal year 2006 and shall not be considered part of the consolidated
6 net surplus pursuant to section 5C of chapter 29 of the General Laws.

Roche Memorial Rink I

1 SECTION 47. Section 2E of chapter 352 of the acts of 2004 is hereby amended by striking out
2 item 2800-0105 and inserting in place thereof the following item:-
3

4 2800-0105 For repairs to the department of conservation and recreation's recreational rinks;
5 provided, that all funds appropriated herein shall be subject to private matching funds up to a 2-to-1 match;
6 provided further, that \$1,000,000 shall be expended for Connell Rink in the town of Weymouth; provided
7 further, that \$900,000 shall be expended for bath house repairs at Houghton's Pond in the town of Canton;
8 and provided further, that \$1,000,000 shall be provided to the Eileen Patricia Sullivan Roche Foundation
9 for the repair and improvement of the Jim Roche Memorial Rink, formerly the Walter C. Bryan Memorial
10 Rink, in the West Roxbury section of the city of Boston.....\$2,900,000

Daly Memorial Rink, Brighton II

1 SECTION 48. Section 121 of chapter 352 of the acts of 2004 is hereby repealed.
2

DCAMM Land Transfer to Festa Trust

1 SECTION 49. Chapter 443 of the acts of 2004 is hereby amended by striking out section 1 and
2 inserting in place thereof the following section:-

3 Section 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any
4 other general or special law to the contrary, the commissioner of the division of capital asset management
5 and maintenance shall convey a certain parcel of state-owned land in the city of Revere to Joseph A. Festa,
6 Jr. and John V. Festa, Trustees of the Festa Towers Irrevocable Trust for parking purposes only.

7 The parcel of land is located on Revere Beach Boulevard and is shown as 19,125 square feet, more
8 or less, and shown as "Map-Block-Parcel-Unit 2-140-004 on a plan of land of Revere, Mass", dated April
9 3, 2000, and drawn by Albert A. Romano. The exact boundaries of the parcel shall be determined by the
10 commissioner after completion of a survey.

Jury List I

1 SECTION 50. Chapter 6 of the acts of 2005 is hereby amended by inserting after section 2A the
2 following section:-

3 Section 2C.I. For the purpose of making available in fiscal year 2006 balances of appropriations
4 which otherwise would revert on June 30, 2005, the unexpended balance of the appropriation listed below,
5 not to exceed the amount specified below, is hereby re-appropriated for the purposes of and subject to the
6 conditions stated for the corresponding item in section 2A of chapter 352 of the acts of 2004. The amount
7 in this section is re-appropriated from the funds designated for the corresponding items in said section 2A
8 of said chapter 352.

9 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

10 *Reserves.*

11 1599-8092\$850,000

Transfer to the Uncompensated Care Trust Fund

1 SECTION 51. Said chapter 6 is hereby further amended by adding the following section:-

2 Section 34. Effective June 30, 2005, before the calculation of the consolidating net surplus in the
3 budgetary funds and notwithstanding any general of special law to the contrary, the comptroller shall, in
4 consultation with the office of the state treasurer, the executive office for administration and finance, and
5 the executive office of health and human services, transfer an amount equal to \$150,000,000 from the
6 General Fund to the Uncompensated Care Trust Fund from funds made available in the General Fund due
7 to reversions in items 4000-0430, 4000-0500, 4000-0600, 4000-0620, 4000-0700, 4000-0860, 4000-0870,
8 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990 and 4000-1400. Funds shall be
9 transferred pursuant to this section for the purpose of making revenues available for the administration of
10 the uncompensated care pool in hospital fiscal year 2006.

Tourism Fund PAC

1 SECTION 52. Said chapter 6 is hereby further amended by adding the following section:-

2 Section 35. Notwithstanding section 1 of chapter 29 of the General Laws or any other general or
3 special law to the contrary, the balance of the Tourism Fund shall not be considered part of the consolidated
4 net surplus in the budgetary funds as calculated pursuant to section 5C of chapter 29 of the General Laws
5 for fiscal year 2005. The balance of the Massachusetts Tourism Fund at the end of fiscal year 2005 shall be
6 available for expenditure in fiscal year 2006.

Transfer to the Uncompensated Pool

1 SECTION 53. Notwithstanding the provisions of any general or special law to the contrary, the
2 comptroller shall, in consultation with the office of the state treasurer, the executive office for
3 administration and finance and the executive office of health and human services, develop a schedule for
4 transferring the unexpended balance from account 4000-0896 in the state accounting system to the
5 Uncompensated Care Trust Fund for the purpose of making revenues available for the administration of the
6 uncompensated care pool, established under subsection (d) of section 18 of chapter 118G of the General
7 Laws, and pursuant to this act. The schedule shall make the transfers in increments considered appropriate
8 to meet the cash flow needs of the commonwealth and said uncompensated care pool. These transfers shall
9 not begin before October 1, 2005, and shall be completed on or before June 30, 2006.

Transfer of Annual Tobacco Payment

1 SECTION 54. Notwithstanding any general or special law to the contrary, during fiscal year
2 2006, the comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of
3 the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments

4 received by the commonwealth in fiscal year 2006 pursuant to the master settlement agreement in the
5 action known as *Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al.*, Middlesex Superior Court,
6 No. 95-7378 and 50 per cent of the earnings generated in fiscal year 2006 from the Health Care Security
7 Trust, as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General
8 Laws, for certain health care expenditures appropriated in section 2.

Regional Tourism Facility Fund

1 SECTION 55. Notwithstanding any general or special law to the contrary, in accordance with
2 subsection (e) of section 35J of chapter 10 of the General Laws, \$1,769,250 shall be transferred from the
3 Massachusetts Tourism Fund to the Regional Tourism Facility Fund in fiscal year 2006.

Division of Capital Asset Management and Maintenance Lease Provision

1 SECTION 56. Notwithstanding any general or special law to the contrary, the division of capital
2 asset management and maintenance may, during fiscal year 2006, pay out of capital funds the cost of leases
3 for the following courts: administrative office of the trial court (Center Plaza - Boston); land court
4 (Boston); Norfolk probate and family court (Canton); temporary court space in the Cohannet school
5 (Taunton).

Division of Unemployment Assistance Southeast Regional Hearings Center

1 SECTION 57. Notwithstanding any general or special law, regulation or rule to the contrary, during
2 fiscal year 2006, the division of unemployment assistance shall maintain an office in the city of Taunton
3 within a 1/2-mile radius of the Bristol superior court building for the purpose of holding hearings.

Federal Medicaid Assistance Percentage Transfer II

1 SECTION 58. Not later than 15 days after the effective date of this act, the state comptroller shall
2 transfer \$120,000,000 from the Federal Medicaid Assistance Percentage Escrow Fund, established by
3 section 1 of chapter 118 of the acts of 2003, to the General Fund.

Stabilization Fund Transfers

1 SECTION 59. (a) Notwithstanding any general or special law to the contrary, on or before June 30,
2 2006, the comptroller shall transfer \$150,000,000 from the Commonwealth Stabilization Fund, established
3 under section 2H of chapter 29 of the General Laws, to the General Fund.

4 (b) On or before June 30, 2006, before the calculation of the consolidated net surplus under section
5 5C of chapter 29 of the General Laws, the comptroller shall transfer from the General Fund to the
6 Commonwealth Stabilization Fund a portion of any taxes collected for the budget in excess of taxes
7 projected in section 1A of this act. The transfer to the Commonwealth Stabilization Fund under this section
8 shall equal any positive difference between total taxes actually collected for the budget and taxes
9 anticipated in section 1A of this act, but not more than \$236,000,000.

Uncompensated Care Trust Fund Federal Reimbursement

1 SECTION 60. Notwithstanding any general or special law to the contrary, the executive office of
2 health and human services and the division of health care finance and policy shall take any appropriate
3 action to obtain the maximum amount of federal financial participation available for amounts paid to
4 hospitals for free care costs determined by the division to be disproportionate share hospitals in accordance
5 with Title XIX requirements. Such appropriate action may include, but shall not be limited to, the
6 assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the
7 General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental
8 services agreement between the executive office and the division, which may authorize the division to
9 make deposits into and payments from an account established for the purposes of this section within the
10 Uncompensated Care Trust Fund, established by section 18 of chapter 118G, or authorize the division to

11 transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G, or funds
12 otherwise made available to the trust fund by the general court, to the executive office for the purposes of
13 making disproportionate share adjustment payments to hospitals qualifying for such payments in
14 accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX. The
15 executive office may expend amounts transferred to it from the Uncompensated Care Trust Fund by the
16 division under such interdepartmental services agreement without further appropriation. In no event shall
17 the amount of money assessed upon each hospital exceed the hospital's gross liability to the
18 Uncompensated Care Trust Fund as determined by the division pursuant to said section 18 of said chapter
19 118G of the General Laws. Any federal funds obtained as a result of said actions shall be deposited in the
20 General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may
21 be necessary to effectuate the provisions of this section, including procedures to facilitate the expeditious
22 assessment, collection and expenditure of funds pursuant to this section.

Uncompensated Care Pool in Hospital Fiscal Year 2006

1 SECTION 61. Notwithstanding any general or special law to the contrary, in hospital fiscal year
2 2006, the division of health care finance and policy may administer, as provided in this section, the
3 Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, to collect
4 assessments as specified in section 1 of said chapter 118G for deposit to the fund, and to make certain
5 payments to acute hospitals and community health centers from the uncompensated care pool to offset the
6 costs of services provided to uninsured or low income residents. The division and the executive office of
7 health and human services may promulgate regulations to implement this section.

8 The division, in consultation with the executive office, shall ensure that assessment liability to the
9 fund and payments from the uncompensated care pool are structured in a manner to secure for the General
10 Fund the maximum allowable federal reimbursement under Title XIX, XXI, or any successor federal law.

11 In hospital fiscal year 2006, the total liability of all acute care hospitals to the fund shall be
12 \$160,000,000. The division shall calculate an assessment percentage rate by dividing \$160,000,000 by the
13 projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute
14 care hospital's liability to the fund shall be equal to the product of the percentage rate and its private sector
15 charges.

16 In hospital fiscal year 2006, the total surcharge liability of surcharge payers to the Uncompensated
17 Care Trust Fund shall be \$160,000,000. The surcharge amount for each surcharge payer shall be equal to
18 the product of: (a) the surcharge percentage, and (b) amounts paid for services of an acute hospital or
19 ambulatory surgical center by each surcharge payer. The division shall calculate the surcharge percentage
20 by dividing \$160,000,000 by the projected annual aggregate payments subject to surcharge, as defined in
21 said section 1 of said chapter 118G.

22 All Title XIX federal financial participation revenue generated by hospital payments funded by the
23 Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office,
24 shall be credited to the General Fund.

25 All hospital payments made pursuant to this section shall be subject to federal approval and
26 conditioned on the receipt of full federal financial participation. All such payments shall be established in
27 accordance with Title XIX of the Social Security Act, or any successor federal law, any regulations
28 promulgated thereunder, and the commonwealth's Title XIX state plan.

29 The division shall calculate an annual payment liability from the uncompensated care pool to each
30 acute care hospital for fiscal year 2006. In determining the liability amount, the division shall:

31 (a)(1) calculate each hospital's actual free care cost for the 12-month period from October 1, 2003,
32 to September 30, 2004, inclusive, by using each hospital's actual submitted free care charges to the division
33 on the UC-04 times its ratio of costs to charges for pool fiscal year 2004;

34 (2) project each hospital's free care costs above for pool fiscal year 2005 by using a cost growth
35 factor of 7.6 per cent;

36 (3) project each hospital's total free care costs for pool fiscal year 2006 by multiplying each
37 hospital's pool fiscal year 2005 projected free care costs from subclause (2) by a cost growth factor of 7.6
38 per cent; and

39 (4) take into account such factors as the financial burden of hospitals that provide proportionately
40 the largest volume of free care and the situation of any free-standing pediatric hospital with a
41 disproportionately low volume of Title XVIII payments; and

(b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2006, as determined by the division using prior year data and considering the total funds available for the purpose. This fixed percentage shall not be less than 85 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2003, and not less than 88 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 14 acute hospitals with the next-highest relative volume of free care costs in that year. In order to identify these 16 hospitals, the division shall rank all hospitals based on the percentage of each hospital's free care costs divided by the total free care costs of all hospitals in the commonwealth. All other acute care hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2006 annual liability amount to each hospital shall be funded by the trust fund. This liability may be satisfied through either a disproportionate share payment or an adjustment to Title XIX service rate adjustment payment, or a combination thereof, in accordance with the terms provided for in an agreement entered into by an acute care hospital and the executive office. The comptroller, in consultation with the division and the executive office, shall transfer funds from the trust fund to the executive office for the purpose of the Title XIX service rate adjustment payments.

The executive office may use other federally-permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The executive office shall make payments from the uncompensated care pool for services provided by community health centers to low income residents. The executive office shall structure such payments to maximize allowable federal reimbursement under Title XIX. Pursuant to section 117 of chapter 140 of the Acts of 2003, all Title XIX federal financial participation revenue generated by community health center payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be retained in a separate account within the Uncompensated Care Trust Fund and expended, without further appropriation, for uncompensated care pool payments to community health centers, in addition to the amount specified in the following paragraph.

In hospital fiscal year 2006, \$500,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for in this section. In addition to the federal financial participation to be retained in, and expended from, the trust fund for community health centers pursuant to the preceding paragraph, \$56,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section and \$4,000,000 shall be credited for administrative expenses, including demonstration projects pursuant to sections 21 and 22 of chapter 47 of the acts of 1997, as amended by sections 156, 157, and 158 of chapter 184 of the acts of 2002.

In hospital fiscal year 2006, the office of the inspector general is hereby authorized to continue to expend funds appropriated in chapter 240 of the acts of 2004 from the Uncompensated Care Trust Fund for the costs associated with maintaining a pool audit unit within said office. The unit shall continue to oversee and examine the practices in emergency rooms of all Massachusetts' hospitals concerning the care of the uninsured and the resulting free care charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2006. For the purposes of the audits, allowable free care services shall be as provided in chapter 118G of the General Laws and any applicable regulations.

Medicare Part D and Prescription Advantage

SECTION 62. Notwithstanding any general or special law to the contrary, beginning January 1, 2006, in addition to the eligibility requirements set forth in said section 39 of chapter 19A, to be considered eligible for the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the "prescription advantage program", individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program shall also be enrolled in a Medicare Part D plan, or in a Medicare Advantage plan if that plan provides prescription drug benefits equivalent to or better than Medicare Part D. In addition to the eligibility requirements set forth in section 39 of chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program, who may qualify for the low-income subsidy, so-called, provided under the Medicare Prescription Drug, Improvement and

11 Modernization Act of 2003, hereinafter referred to as "MMA", Subpart P - Premiums and cost-sharing
12 subsidies for low-income individuals shall apply for those subsidies. To the extent permitted by MMA and
13 regulations promulgated thereunder, and all other applicable federal law, the prescription advantage
14 program may apply on behalf of a member for enrollment into a Medicare Part D plan or for the low-
15 income subsidy provided under MMA.

16 Beginning January 1, 2006, for enrollees who qualify for Medicare Part D, the prescription
17 advantage program shall provide a supplemental source of financial assistance for prescription drug costs,
18 hereinafter referred to as "supplemental assistance" in lieu, of the catastrophic prescription drug coverage
19 provided pursuant to said section 39 of chapter 19A. The prescription advantage program shall provide
20 supplemental assistance for premiums, deductibles, payments, and co-payments required by the Part D plan
21 or Medicare Advantage plan. The department shall establish the amount of the supplemental assistance it
22 will provide enrollees based on a sliding income scale and the coverage provided by the enrollees' Part D
23 or Medicare Advantage plan. Residents of the commonwealth who are not eligible for Medicare will
24 continue to be eligible for the prescription advantage program pursuant to said section 39 of chapter 19A.

Tuition for Special Education Private Schools

1 SECTION 63. Notwithstanding any general or special law to the contrary, the operational services
2 division shall authorize fiscal year 2006 prices for programs under chapter 71B of the General Laws, in
3 accordance with its regulations, and shall authorize fiscal year 2006 annual prices by increasing the final
4 fiscal year 2005 price by the estimated rate of inflation determined by the division on December 1, 2004.
5 Programs for which prices in fiscal year 2005 were lower than the full amount either permitted or
6 calculated by the division shall have fiscal year 2006 annual prices authorized by increasing the full price
7 calculated for fiscal year 2005 by the rate of inflation determined by the division on December 1, 2004.
8 The division shall also authorize a minimum price for the program to charge out-of-state purchasers by
9 identifying the most recent price calculated for the program and apply the estimated rates of inflation
10 determined by the division on December 1, 2004 in a compounded manner for each fiscal year following
11 the most recent calculated price.

General Fund Transfer to the Uncompensated Care Pool

1 SECTION 64. Notwithstanding any general or special law to the contrary, the comptroller shall,
2 in consultation with the office of the state treasurer, the executive office for administration and finance and
3 the executive office of health and human services, develop a schedule for making a series of transfers not to
4 exceed \$48,700,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of
5 making revenues available for the administration of the uncompensated care pool, established under
6 subsection (d) of section 18 of chapter 118G of the General Laws, and pursuant to this act. The schedule
7 shall make the transfers in increments appropriate to meet the cash flow needs of the commonwealth and
8 the uncompensated care pool. These transfers shall not begin before October 1, 2005, and shall be
9 completed on or before June 30, 2006.

Procurement Reform Savings

1 SECTION 65. Notwithstanding any general or special law to the contrary the secretary for
2 administration and finance shall identify reversions in fiscal year 2006 totaling \$25,000,000 from savings
3 achieved through procurement reform at the operational services division. These monies shall be generated
4 from cost savings efforts that include, but shall not be limited to, streamlining the procurement process,
5 conducting multiple round negotiations, awarding contracts to fewer bidders or consolidating contracts,
6 changing procurements to shorter durations, minimizing renewal options, conducting reverse auctions, and
7 using volume purchasing. The secretary for administration and finance shall report on these cost savings
8 initiatives quarterly to the house and senate committees on ways and means and the house and senate
9 committees on post audit and oversight. These reports shall include, but shall not be limited to, a
10 breakdown of all savings achieved by each agency, department, and division within the executive branch as
11 a result of programs implemented by the operational services division. The report shall compare the savings
12 to the projected expenditures reflected on the spending plans on file with the secretary by line item and
13 object class.

Tourism Formula Suspension

1 SECTION 66. Notwithstanding any general or special law to the contrary, section 615 of chapter 26
2 of the acts of 2003 shall apply in fiscal year 2006.

Trial Court Transferability

1 SECTION 67. Notwithstanding paragraph (a) of subsection (xxiii) of section 9 of chapter 211B of
2 the General Laws, or any other general or special law to the contrary, the chief justice for administration
3 and management may, from the effective date of this act through April 30, 2006, transfer funds from any
4 item of appropriation of any trial court department to any other item of appropriation within the trial court.
5 These transfers shall be made in accordance with schedules submitted to the house and senate committees
6 on ways and means. The schedule shall include the following: (1) the amount of money transferred from
7 one item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on
8 which the transfer is to be completed. No transfer under this section shall occur until 10 days after the
9 revised funding schedules have been submitted in written form to the house and senate committees on ways
10 and means.

Transfer of Westborough Property to the Department of Youth Services

1 SECTION 68. The division of capital asset management and maintenance may transfer use of and
2 responsibility for a parcel of vacant state-owned land in the town of Westborough to the department of
3 youth services for use as a location for a new facility for girls committed to the department. The exact size
4 and boundaries of the parcel to be transferred shall be determined by the division of capital asset
5 management and maintenance. Transfer of this parcel shall be without consideration and shall not be
6 subject to chapter 7 of the General Laws.

Roche Memorial Rink II

1 SECTION 69. (a) Notwithstanding section 54 of chapter 7 of the General Laws, the division of
2 capital asset management and maintenance, on behalf of and in consultation with the department of
3 conservation and recreation, may, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the
4 General Laws and using such competitive proposal process as the commissioner of the division considers
5 necessary or appropriate, lease and enter into other agreements, for terms not to exceed 3 years, to or with 1
6 or more offerors who participate in that process, for the Jim Roche Memorial Rink together with the land
7 and appurtenances associated therewith, so as to provide for the continued use, operation, maintenance,
8 repair and improvement of the rink.

9 (b) The solicitation of proposals for the lease, the terms of the lease and the responsibility for costs
10 shall be as stated in subsection (a), the first and fourth paragraphs of subsection (b) and subsections (c) and
11 (d) of section 279 of chapter 149 of the acts of 2004 except as otherwise provided herein. There shall be an
12 option for renewal or extension for operations and maintenance services not exceeding an additional 3
13 years. All consideration received from the leases or other agreements shall be payable to the department of
14 conservation and recreation for deposit into the Roche Community Rink Fund in accordance with section
15 2NNN of chapter 29 of the General Laws.

16 (c) Notwithstanding any general or special law, ordinance, rule or regulation to the contrary, but
17 subject to the wage requirements of sections 26 through 27H of chapter 149 of the General Laws, the
18 Eileen Patricia Sullivan Roche Foundation, as the donor of \$2 million for the repair and improvement of
19 the Jim Roche Memorial Rink, West Roxbury, subject to the approval of the commissioner of the division
20 of capital asset management and maintenance acting in consultation with the commissioner of the
21 department of conservation and recreation, may complete a capital repair program in accordance with item
22 2800-0105 of section 2E of chapter 352 of the acts of 2004 and with its donated funds. The repair program
23 shall include, but shall not be limited to, the repair and reconstruction of buildings, improvements to the
24 grounds and the repair, refurbishing, purchase and installation of new equipment.

Chapter 70: Education Reform Minimum Contribution Waiver

1 SECTION 70. (a) Upon the request of the board of selectmen in a town, the city council in a plan
2 E city or the mayor in any other city, the department of revenue may recalculate the minimum required
3 local contribution, as defined in section 2 of chapter 70 of the General Laws in the fiscal year ending June
4 30, 2006. Based on the criteria in this section, the department shall recalculate the minimum required local
5 contribution for a municipality's local and regional schools and shall certify the amounts calculated to the
6 department of education.

7 (b) A city or town that used qualifying revenue amounts in a fiscal year which will not be
8 available for use in the next fiscal year, or that will be required to use revenues for extraordinary non
9 school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an
10 excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the
11 state average municipal revenue growth factor, may appeal to the department of revenue not later than
12 October 1, 2005 for an adjustment of its minimum required local contribution and net school spending.

13 (c) If a claim is determined to be valid, the department of revenue may reduce proportionately
14 the minimum required local contribution amount based on the amount of shortfall in revenue or based on
15 the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the
16 minimum required local contribution on account of an extraordinary expense in the budget for the fiscal
17 year ending on June 30, 2006 shall affect the calculation of the minimum required local contribution in
18 subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary
19 amounts of free cash, overlay surplus and other available funds.

20 (d) If, upon submission of adequate documentation, the department of revenue determines that
21 the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department
22 shall recalculate the municipal revenue growth factor and the department of education shall use the revised
23 growth factor to calculate the preliminary local contribution, the minimum required local contribution and
24 any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a
25 result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum
26 required local contribution.

27 (e) The board of selectmen in a town, the city council in a plan E city, the mayor in any other
28 city, or a majority of the member municipalities of a regional school district, which used qualifying revenue
29 amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the
30 department of revenue not later than October 1, 2005 for an adjustment to its net school spending
31 requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school
32 spending requirement based on the amount of the shortfall in revenue and reduce the minimum required
33 local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but
34 not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

35 (f) If the regional school budget has already been adopted by 2/3 of the member municipalities
36 then, upon a majority vote of the member municipalities, the regional school committee shall adjust the
37 assessments of the member municipalities in accordance with the reduction in minimum required local
38 contributions approved by the department of revenue or the department of education in accordance with
39 this section.

40 (g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other
41 general or special law to the contrary, the amounts so determined under this section shall be the minimum
42 required local contribution described in chapter 70 of the General Laws. The department of revenue and
43 the department of education shall notify the house and senate committees on ways and means and the joint
44 committee on education of the amount of any reduction in the minimum required local contribution
45 amount.

46 (h) If a city or town has an approved budget that exceeds the recalculated minimum required
47 local contribution and net school spending amounts for its local school system or its recalculated minimum
48 required local contribution to its regional school districts as provided by this section, the local appropriating
49 authority shall determine the extent to which the community shall avail itself of any relief authorized under
50 this section.

51 (i) The amount of financial assistance due from the commonwealth in fiscal year 2006 under
52 chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of
53 the minimum required local contribution under this section.

54 (j) The department of revenue and the department of education shall issue guidelines for their
55 respective duties under this section.

Shannon Stadium at Dilboy Field

1 SECTION 71. The stadium at Dilboy Field in Somerville shall be named Shannon Stadium at
2 Dilboy Field.

Martin McNamara Benefits

1 SECTION 72. The state treasurer acting through the Worcester regional retirement board shall pay
2 from the pension fund the proceeds of the annuity funded in item 0612-1012 of section 2 of this act to
3 Claire B. McNamara, the surviving spouse of firefighter Martin H. McNamara V, so long as she remains
4 unmarried, an accidental death benefit allowance to consist of a yearly amount of annuity equal to two-
5 thirds of the average annual salary of a first year career firefighter in the local area. The average shall be
6 determined by a survey of not less than 3 surrounding towns which are member units of the Worcester
7 Regional Retirement System, such towns as determined by the Worcester Regional Retirement System, in
8 consultation with the public employee retirement administration commission. The annuity shall be
9 increased \$2,600 for each surviving unmarried child of firefighter McNamara who is under 18 years of age,
10 or 22 years of age if a full-time student at an accredited educational institution, or who is over said age and
11 is physically or mentally incapacitated from earning and is a dependent of the surviving spouse. If there is
12 no surviving spouse or the surviving spouse later dies, the annuity shall be paid to the eligible children in
13 equal shares until the child reaches 18 years of age, or 22 years of age if a full-time student at an accredited
14 educational institution. There shall be no end date for a child who is over said age and is physically or
15 mentally incapacitated from earning. If the surviving spouse marries, an annuity of \$12,000 should be
16 made annually to each eligible child. If any unused portion of the proceeds of the annuity is to be returned
17 to the treasurer, he shall transfer such monies to the General Fund.

18 It is the intention of the General Court that no other one-time state death or disability benefit shall be
19 funded on behalf of municipal public safety personnel or their survivors other than those benefits
20 specifically authorized by general or special law pending the enactment of a general system for establishing
21 and funding those benefits.

Nursing Home Clinical Eligibility

1 SECTION 73. Notwithstanding any general or special law to the contrary, the regulations, criteria
2 and standards for determining admission to and continued stay in a nursing home shall not be more
3 restrictive than those regulations, criteria and standards in effect on January 1, 2004 until the executive
4 office of health and human services and the executive office of elder affairs submit a multi-year plan to the
5 house and senate committees on ways and means and the joint committee on health care financing detailing
6 the suggested timeline for phasing in changes to nursing home clinical criteria; but these changes shall not
7 adversely affect current nursing home residents and shall not jeopardize the effectiveness of the 2176 home
8 and community based waiver.

Rental Car Surcharge

1 SECTION 74. (a) Notwithstanding any general or special law to the contrary, the city of Revere
2 may promulgate rules and regulations regarding the rental of motor vehicles to require the assessment and
3 payment of a surcharge of not more than \$10 on each motor vehicle rental contract in the city. The
4 surcharges collected shall be paid monthly to the city not later than the twentieth of the month following
5 the collection of the surcharge and may be added to the cost of the rental agreement. Amounts received by
6 the city pursuant to this section shall not be considered in the determination of the amount of any
7 distribution of state assistance to the city.

8 (b) For the purpose of determining compliance with this section, the city of Revere may examine all
9 relevant books, records and documents of a person or entity engaged in the business of renting motor
10 vehicles. The auditor or the treasurer of the city or a designee of the auditor or the treasurer shall conduct
11 any such examination. If the surcharge collected is less than the amount required pursuant to this section,

the city may file a claim, within 2 years after the date on which the surcharge is due, for the underpayment or undercollection, together with interest permitted by law.

(c) This section shall provide an exclusive, additional, alternative and complete method for the imposition and collection of a surcharge on a motor vehicle rental agreement. This section shall be supplemental and additional to, and not in derogation of, powers conferred upon the city of Revere. If this section is inconsistent with any general or special law or administrative order or regulation or any limitation imposed by the charter of the city of Revere, this section shall control.

(d) The city of Revere shall reserve any payment received under this section in a revolving fund established under section 53E½ of chapter 44 of the General Laws. Expenditures from this revolving fund shall be exclusively for the principal and interest on loan orders incurred by the city for architectural, engineering, geotechnical and design services and for the original equipping and construction of a new public safety facility for the city.

Nursing Facility Assessment Spending

SECTION 75. Notwithstanding any general or special law to the contrary, in fiscal year 2006, the division of health care finance and policy, referred to in this section as the division, shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2005 through June 30, 2006 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002, as mandated under section 1 of chapter 42 of the acts of 2003. The division shall adjust per diem rates to reflect any reductions in Medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2006:

(1) effective July 1, 2005, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes; provided, that \$9,000,000 of this amount shall be expended for purposes of reimbursing nursing facilities for up to ten bed hold days for patients of the facility on medical and non-medical leaves of absence;

(2) effective July 1, 2005, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2005, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add-on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the executive office of health and human services. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2005, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the executive office of health and human services in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the executive office of health and human services in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings and to the extent that an annual amount of \$17 million

in this paragraph is not fully allocated, the division shall first fund capital rate adjustments for nursing homes in urban or geographically remote under-bedded areas;

(5) \$300,000 for the purposes of an audit of funds distributed under clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the executive office of health and human services, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2006 a preliminary analysis of funds expended under this subsection in fiscal year 2006 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of section 25 of chapter 118G of the General Laws; and

(7) an amount sufficient to implement section 622 of chapter 151 of the acts of 1996;

The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the division of health care finance and policy and the executive office of health and human services to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Health Care Quality Improvement Trust Fund due to decreased Medicaid utilization shall be spent on further enhanced rates, including, but not limited to, a per-diem rate add-on for large Medicaid providers as specified in 114.2 CMR 6.06 (10) (a), as in effect on September 1, 2003.

Interdepartmental Services Agreement with University of Massachusetts

SECTION 76. Notwithstanding any general or special law to the contrary, the executive office of health and human services, acting in its capacity as the single state agency authorized to supervise and administer state programs under title XIX of the Social Security Act, and other federally assisted programs specified in section 16 of chapter 6A of the General Laws, may enter into interdepartmental services agreements with the University of Massachusetts medical school to perform such activities as the secretary of health and human services, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of title XIX and other federal funding provisions. Such activities shall include: (1) administrative services, including, but not limited to, providing medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities, and similar initiatives; (2) consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; and (3) activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability, and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts medical school for services provided under interdepartmental service agreements or other contracts with the executive office shall be distributed to the university. The secretary may negotiate contingency fees for activities and services related to pursuing federal reimbursement or avoiding costs, and the comptroller shall certify these fees, and pay upon the receipt of such revenue, reimbursement, or demonstration of costs avoided; but the secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2006. The secretary of health and human services shall submit to the secretary of administration and finance and the house and senate committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the university, the amounts spent on personnel, and the amount of federal reimbursement and recoupment payments that the university was able to collect.

ICF/MR Assessment

SECTION 77. Notwithstanding any general or special law to the contrary, in each fiscal year that assessments are collected under section 27 of chapter 118G of the General Laws, the comptroller shall transfer from the Uncompensated Care Trust Fund account established under subsection (p) of section 18 of chapter 118G of the General Laws an amount sufficient to reflect the costs of the assessment on public facilities and an amount sufficient to fund rate increases for services provided to MassHealth members by non-public intermediate care facilities and community-based residences. The comptroller shall transfer the

7 federal financial participation received as a result of expenditures funded by the assessments to an account
8 established for the department of mental retardation to administer for the purposes described above.

Uncapping of Lottery

1 SECTION 78. Notwithstanding any general or special law to the contrary, for fiscal years 2006 to
2 2008, inclusive, the total amount allocated for distribution to cities and towns under section 35 of chapter
3 10 of the General Laws shall be the sum of the amount distributed in fiscal year 2005 and: (i) in fiscal year
4 2006, 45 per cent of the difference between the fiscal year 2005 distribution and the amount that would
5 otherwise be payable; (ii) in fiscal year 2007, 65 per cent of the difference between the fiscal year 2005
6 distribution and the amount that would otherwise be payable; and (iii) in fiscal year 2008, 85 per cent of the
7 difference between the 2005 distribution and the amount that would otherwise be payable. For fiscal year
8 2009 and thereafter, the distribution of lottery proceeds shall be determined under section 35 of chapter 10
9 of the General Laws.

Boston Harbor Islands MOA, Department of Conservation and Recreation

1 SECTION 79. Notwithstanding any general or special law to the contrary, the department of
2 conservation and recreation shall enter into a memorandum of agreement with Island Alliance, Inc., a duly
3 authorized nonprofit corporation dedicated to promoting awareness and usage of the Boston harbor islands
4 national recreation area, to assist in the development and improvement of the Boston harbor islands. The
5 memorandum of agreement shall extend for an initial period of not more than 30 years and shall authorize
6 Island Alliance, Inc. to provide the following services: procurement, conducting studies, obtaining permits,
7 entering into and managing contracts for construction and operations, accepting funds from the department
8 or on behalf of the department from another agency, and such other services as the department shall
9 determine to be appropriate. The memorandum of agreement shall permit Island Alliance, Inc. to retain
10 any revenues generated by its activities under the memorandum of agreement as long as those revenues are
11 used for the benefit of the islands owned by the commonwealth within the Boston harbor islands national
12 recreation area.

Holyoke Soldiers' Home Off Budget Trust

1 SECTION 80. Notwithstanding any general or special law to the contrary, the state treasurer shall
2 establish on the books of the commonwealth a trust fund known as the Holyoke Soldiers' Home Trust Fund
3 to receive gifts, grants, and donations to the Soldiers' Home in Holyoke, as well as income from the
4 licensing or rental of the home's property for the placement of telecommunications antennae. The trustees
5 may expend the money deposited in the fund without further appropriation for the benefit of inpatient and
6 outpatient veterans either residing in or using the facilities of the home.

Sex Offender Management Pilot Program

1 SECTION 81. There shall be a pilot program operated by the Barnstable county sheriff to
2 determine the effectiveness of proposed improvements to the regional uniform protocol for sex offender
3 management. Any individual who has been adjudicated as a sex offender, is being released from a
4 department of correction facility or a house of correction, and intends to reside in Barnstable county must
5 register with the sex offender registry board 90 days before his release and declare the municipality in
6 which he plans to reside. The department of correction facility or house of correction releasing the sex
7 offender shall require that he be transferred to the house of correction in Barnstable county 30 days before
8 his release. One critical objective of the pilot program shall be to insure, through the expanded use of
9 regional hearing officers, that all sex offenders being released into Barnstable county municipalities are
10 registered and classified before they are released from custody. The sex offender registry board, in
11 consultation with the Barnstable county sheriff, shall expand the use of regional hearing officers in
12 Barnstable county to insure the registration and classification of sex offenders before their release from
13 custody. In registering, sex offenders must disclose their primary and any secondary post-release addresses.

14 This pilot program shall operate until June 30, 2006.

Report on Status of Medicaid Waiver

1 SECTION 82. The secretary of health and human services shall, within 30 days of the effective
2 date of this act and prior to executing any further agreement with the federal Centers for Medicare and
3 Medicaid Services, report to the house and senate committees on ways and means and the joint committee
4 on health care financing on the status of the Commonwealth's Medicaid waiver, the terms and conditions of
5 the waiver and the new Safety Net Care Pool, and the effect of the waiver on the Medicaid program and
6 current system of health care financing. The report shall: 1) detail the loss of allowable payments and
7 reimbursements under the terms of the waiver and the effect on the current health care financing system; 2)
8 identify a plan for replacing lost federal reimbursement revenues for safety net providers and their managed
9 care plans while maintaining the current level of funding and current level of benefits and without harming
10 other hospitals and community health centers; 3) identify what, if any, financing mechanisms are available
11 to replace the loss of intergovernmental transfers and supplemental payments to managed care plans
12 operated by Boston Medical Center and Cambridge Health Alliance; 4) identify the sources of state
13 matching funds that will allow the Commonwealth to maximize federal financial participation, including
14 eligible current state spending, new state revenues or provider assessments; 5) detail the spending plan for
15 the Safety Net Care Pool, including but not limited to safety net providers, uncompensated care, and the
16 uninsured; and 6) detail a plan to stay within the federal budget neutrality requirements given the cost trend
17 factors of the new waiver.

Collaborative Drug Purchasing for Sheriffs

1 SECTION 83. The state office of pharmacy services at the department of public health, in this
2 section called SOPS, shall conduct a cost-benefit analysis comparing the cost of each county and state
3 sheriff's current pharmacy services arrangements with the cost of comparable services provided by SOPS.
4 Each county and state sheriff shall provide all data and information requested by SOPS no later than
5 August 15, 2005, for the purpose of conducting the cost benefit analysis. SOPS shall report the results of
6 this analysis to the house and senate committees on ways and means no later than October 1, 2005.

7 Notwithstanding any general or special law to the contrary, whenever a county or state sheriff
8 engages in negotiations, renegotiations, or bids for pharmacy services, that sheriff shall request a proposal
9 from SOPS for the provision of pharmacy services. The state sheriffs and the county sheriffs, through the
10 executive office of public safety, shall enter into interagency service agreements with SOPS for the
11 provision of pharmacy services when the SOPS proposal is more cost-effective than other providers and
12 when SOPS determines that it would be able to provide appropriate services.

Revere Beach Maintenance Contract

1 SECTION 84. Notwithstanding any general or special law to the contrary, the department of
2 conservation and recreation shall enter into a maintenance contract with a suitable vendor for the purposes
3 of daily trash removal on Revere Beach from May 30, 2005, to September 5, 2005, inclusive. Said contract
4 shall be funded through proceeds received by the city of Revere and the department of conservation and
5 recreation pursuant to section 29 of chapter 236 of the acts of 2002 and section 2 of this act.

Intergovernmental Transfer – MassHealth Managed Care Contracts

1 SECTION 85. Notwithstanding any general or special law to the contrary, during fiscal year 2006
2 the executive office of health and human services shall expend from the medical assistance
3 intergovernmental transfer account within the Uncompensated Care Trust Fund an amount equal to the
4 actual amount paid for fiscal year 2005 for a program of MassHealth supplemental payments to certain
5 publicly operated entities providing Title XIX reimbursable services, directly or through contracts with
6 hospitals under an agreement with the executive office of health and human services, relating to such
7 payments and transfers as established in accordance with Title XIX of the Social Security Act or federal
8 waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of
9 the Social Security Act, state law and the Medicaid state plan. The funds may be expended only for
10 payment obligations arising during fiscal year 2006. Such expenditures shall reduce payments from the
11 Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by

12 such entities under this section. The executive office of health and human services shall notify the house
13 and senate committees on ways and means if such expenditures are rendered ineligible for federal
14 reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and
15 senate committees on ways and means. Amounts authorized for expenditure shall be funded in part through
16 intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The
17 Boston public health commission and the Cambridge public health commission shall transfer to this
18 medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts
19 of supplemental payments made by the executive office of health and human services under managed care
20 contracts with the commissions. An amount equal to 1.93 per cent of the total amount that the Boston and
21 Cambridge public health commissions transfer to the medical assistance intergovernmental transfer account
22 pursuant to this section shall be transferred from the medical assistance intergovernmental transfer account
23 to revenues available for the administration of the uncompensated care pool, as established under
24 subsection (d) of section 18 of chapter 118G of the General Laws. An amount equal to 7.16 per cent of the
25 total amount that the Boston and Cambridge public health commissions transfer to the medical assistance
26 intergovernmental transfer account pursuant to this section shall be transferred from the medical assistance
27 intergovernmental transfer account and credited to the Distressed Provider Expendable Trust Fund.

Surplus Property Disposition

1 SECTION 86. (a) For the purposes of this section, the following terms shall have the following
2 meanings, unless the context clearly requires otherwise:

3 “Commissioner”, the commissioner of capital asset management and maintenance.

4 “Net cash proceeds”, all payments paid to the commonwealth as and when paid, less any transaction-related
5 expenses incurred by the division of capital asset management and maintenance for which it is not
6 otherwise reimbursed, and less any amounts that may be owing to the federal government as a result of the
7 disposition.

8 “Real property”, as defined in section 39A of chapter 7 of the General Laws.

9 “State agency”, as defined in said section 39A(v) of said chapter 7.

10 “Surplus land coordination committee”, the committee established by subsection (e).. c

11 “Surplus real property”, real property of the commonwealth: (1) previously determined to be surplus to
12 current and foreseeable state needs pursuant to sections 40F or 40F½ of said chapter 7, but excluding real
13 property for which there is an established local reuse plan; or (2) determined to be surplus to current and
14 foreseeable state needs pursuant to this section or to section 548 of chapter 26 of the acts of 2003. This term
15 shall not include property subject to Article 97 of the Amendments to the Constitution and shall not include
16 parcels exceeding 25 acres.

17 (b) Notwithstanding sections 40E to 40F½, inclusive, and 40H of said chapter 7, or any other general or
18 special law to the contrary, the commissioner may sell, lease for a term not to exceed 99 years, transfer or
19 otherwise dispose of surplus real property of the commonwealth, as specified in this section.

20 (c) In order to determine if specified real property is surplus to the current and foreseeable needs of the
21 commonwealth, the commissioner shall provide written notice and inquiry to the executive heads of state
22 agencies and secretaries of the executive offices, who shall have 30 days to submit a written response
23 indicating that the property is necessary for a specific current or foreseeable need of such agency. If no
24 agency or executive office submits such a response within 30 days of the notice, the commissioner or the
25 surplus land coordination committee may declare the property as surplus and dispose of it in accordance
26 with this section. Alternatively, if a written response is timely received specifying a current or foreseeable
27 need for the real property, the commissioner shall, in consultation with the secretary of administration and
28 finance and with those responding affirmatively, determine whether the real property shall: (1) be made
29 available for current use by a state agency, (2) be retained on account of a foreseeable use by a state
30 agency, or (3) be declared surplus real property which may be disposed of pursuant to this section.

31 (d) When real property is determined to be surplus to current state needs but not to foreseeable state needs,
32 the commissioner shall take such necessary action to ensure that any disposition of the real property is
33 temporary and maintains the commissioner’s ability to make such real property available to a state agency
34 as needed.

35 (e) To facilitate inter-departmental communication within the executive branch concerning surplus
36 property, there shall be a surplus land coordination committee.. The committee shall consist of 1
37 representative appointed by each of the following: the secretary of the executive office for administration

and finance, the commissioner of the division of capital asset management and maintenance, the chairman of the commonwealth development coordinating council, the secretary of the executive office of environmental affairs, the secretary of the executive office of transportation, the secretary of economic development and the director of the department of housing and community development. The committee shall meet at least quarterly and shall advise the commissioner on all real property being considered for surplus designation and on the appropriate disposition of such property, including but not limited to whether the property should be declared surplus, the potential uses for the property, including its suitability for housing development or preservation as open space, and what restrictions, if any, should be considered on its use and development.

For parcels greater than 2 acres in size or initially valued at \$1,000,000 or more, or when the committee considers it otherwise necessary for any particular parcel, the commissioner shall commission the commonwealth development coordinating council to conduct a smart growth review. The commonwealth development coordinating council, in consultation with the regional planning agency for the area in which the parcel is located, shall conduct this review, which shall consider the need for a variety of housing options, jobs and open space; current and prospective zoning of the site; the need for municipal capital facilities and public uses, impact of traffic and transit; impact on the environment and natural resources and on agricultural lands; existence of historically significant structures; availability of infrastructure, including water supply, waste water and storm water run-off; fiscal impact of development on the municipality where the parcel is located; remediation of contamination; and other smart growth implications. The council shall complete this review and submit it to the committee within 60 days after the request for review. This review shall consider the local and regional implications of disposing of the parcel for a variety of prospective uses. If the smart growth review is not completed within 60 days the commissioner may dispose of the property in accordance with subsection (f).

(f) If the commissioner or, for parcels greater than 2 acres in size or initially valued at \$1,000,000 or more, the surplus land coordination committee, determines that the real property is surplus, the commissioner shall: (1) provide written notice for each city or town in which the property is located to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency and the members of the general court representing the city or town in which the property is located as well as surrounding cities or towns; (2) declare it available for disposition and identify any restrictions on its use and development necessary to comply with the policies and principles established by the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws and take into consideration other established state and local plans and policies; (3) conduct a public hearing in the municipality in which the property is located to consider potential reuses and appropriate restrictions if the property parcels exceeds 2 acres or if the commissioner determines or the city or town in which the property is located requests that a hearing should be held for a smaller parcel and provide reasonable public notice in advance of the hearing; and (4) ensure that any deed, lease or other disposition agreement sets forth all such reuse restrictions, provides for effective remedies on behalf of the commonwealth and provides, in the event of a failure to comply with the reuse restrictions by the grantee, lessee or other recipient, that such title or lesser interest as may have been conveyed shall immediately revert to the commonwealth.

(g) The commissioner shall establish the value of surplus real property using customarily accepted appraisal methodologies. The value shall be calculated both: (1) for the highest and best use of the property as may be encumbered, and (2) subject to uses, restrictions and encumbrances defined by the commissioner. In no instance in which the commonwealth retains responsibility for maintaining the said property shall the terms provide for payment of less than the annual maintenance costs.

(h) Before disposing of the surplus property, the commissioner shall provide to each city or town in which the property is located a written right of first refusal to purchase the surplus property on the conditions established in section (f) and at 85 per cent of the value established in subsection (g). This right of first refusal must be exercised, if at all, by the town or city within 90 days after this notice by giving written notification to the commissioner. Upon exercise of the right of first refusal, the city or town shall have an additional 180 days to close the purchase of such property. If the city or town fails to close the purchase of such property within that time, the sole remedy of the commonwealth against the city or town for this failure shall be to proceed with the disposition of the surplus property without further right of purchase by the city or town and the elimination of any requirement to share proceeds of the sale with the city or town as provided in subsection (p).

(i) If the city or town has not exercised its right of first refusal, or has failed to close in a timely manner if such right was exercised, the commissioner shall dispose of surplus real property utilizing appropriate competitive processes and procedures. Such competitive processes may include, but are not limited to, absolute auction, sealed bids and requests for price and development proposals. At least 30 days before the date of an auction or the date on which bids, proposals or other offers to purchase or lease surplus real property are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 stating the availability of such property, the nature of the competitive process and other information deemed relevant, including the time and location of the auction, the submission of bids or proposals and the opening thereof.

(j) The commissioner shall place a notice in the central register identifying the individual or firm selected as party to such real property transaction, along with the amount of such transaction. If the commissioner accepts an amount below the value calculated under subsection (g), he shall include the justification therefor, specifying the difference between the calculated value and the price received.

(k) No agreement for the sale, lease, transfer or other disposition of surplus real property and no deed executed by or on behalf of the commonwealth, shall be valid unless such agreement or deed contains the following certification, signed by the commissioner:

"The undersigned certifies under penalties of perjury that I have fully complied with section ____ of chapter ____ of the acts of 2005 in connection with the property described herein."

(l) No agreement for the sale, lease, transfer or other disposition of surplus real property shall be valid unless the purchaser or lessee has executed and filed with the commissioner the statement required by section 40J of chapter 7 of the General Laws.

(m) The grantee or lessee of any surplus real property shall be responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as shall be considered necessary by the commissioner.

(n) This section shall not apply to the disposition of real property that is the subject of a special act having an effective date before July 1, 2003.

(o) The authority granted to the commissioner by this section shall cease as of June 30, 2008, but the commissioner may complete any transaction for which agreements have been signed and delivered on or before that date.

(p) Funds from the net cash proceeds of dispositions of surplus property pursuant to this section shall be allocated as follows: (1) 10 per cent of the net cash proceeds of each transaction shall be paid to the city or town in which the property is located if the city or town did not exercise its right of first refusal, whether or not the transaction thereafter closed; but that city or town may receive up to a total 25 per cent of the net cash proceeds of a transaction if the municipality has taken affirmative actions in furtherance of the commonwealth's objectives for the parcel, consistent with smart growth and subject to regulations promulgated by the division in consultation with the commonwealth development coordinating council no later than October 1, 2005; (2) after distribution of net cash proceeds to cities and towns pursuant to clause (1), the first \$5 million shall be deposited in the General Fund; (3) 50 per cent of the next \$10 million shall be deposited in the Smart Growth Housing Trust Fund established in section 35AA of chapter 10 of the General Laws, and 50 per cent shall be deposited in the General Fund; and (4) the remaining net cash proceeds shall be deposited in the Smart Growth Housing Trust Fund.

Department of Early Education and Care

SECTION 87. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following agencies of state government from the transferor agency to the transferee agency, defined as follows:

(1) the early education and care functions of the department of education, as the transferor agency, to the department of early education and care, as the transferee;

(2) the functions of the office of child care services with regard to licensure or approval and subsidy administration of child care and day care, as presently described in section 2 of chapter 28A of the General Laws, but excluding the functions listed in clause (3), as the transferor agency, to the department of early education and care, as the transferee; and

11 (3) the functions of the office of child care services with regard to licensure of adoption or foster
12 care placement agencies or residential group care facilities or temporary shelters, as the transferor agency,
13 to the executive office of health and human services, as the transferee.

14 (b) Subject to appropriation, those employees to be transferred from each transferor agency,
15 including those who immediately before the effective date of this act hold permanent appointment in
16 positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by
17 section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are
18 hereby transferred to the respective transferee agency without interruption of service within the meaning of
19 said section 9A of said chapter 30, without impairment of seniority, retirement, or other rights of the
20 employee and without reduction in compensation or salary grade, notwithstanding any change in title or
21 duties resulting from such reorganization, without loss of accrued rights to holidays, sick leave, vacation,
22 and benefits and without change in union representation or certified collective bargaining unit as certified
23 by the state labor relations commission or in local union representation or affiliation.

24 (c) Any collective bargaining agreement in effect immediately before the transfer date shall continue
25 in effect and the terms and conditions of employment therein shall continue as if the employees had not
26 been so transferred. The reorganization shall not impair the civil service status of any such reassigned
27 employee who, immediately before the effective date of this act, either holds a permanent appointment in a
28 position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A
29 of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such
30 employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the
31 General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this
32 section shall be construed to confer upon any employee any right not held immediately before the date of
33 said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge,
34 layoff, or abolition of position not prohibited before such date.

35 (d) All petitions, requests, investigations and other proceedings appropriately and duly brought
36 before each transferor agency or duly begun and pending before each transferor agency before the effective
37 date of this act shall continue unabated and remain in force, but shall be assumed and completed by the
38 respective transferee agency.

39 (e) All orders, rules and regulations duly made and all licenses and approvals duly granted by each
40 transferor agency which are in force immediately before the effective date of this act shall continue in force
41 and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law,
42 by the respective transferee agency.

43 (f) All books, papers, records, documents, equipment, buildings, facilities, cash, and other property,
44 both personal and real, including all such property held in trust, which immediately before the effective
45 date of this act are in the custody of each transferor agency, shall be transferred to the respective transferee
46 agency.

47 (g) All duly existing contracts, leases and obligations of each transferor agency shall continue in
48 effect but shall be assumed by the respective transferee agency. No existing right or remedy of any
49 character shall be lost, impaired or affected by this act.

Initial Gross Payment to Qualifying Acute Care Hospitals

1 SECTION 88. Notwithstanding any general or special law to the contrary, the comptroller shall
2 transfer on or before October 1, 2005, the greater of \$30,000,000 or one-twelfth of the total expenditures to
3 be made to hospitals and community health centers under this act, from the General Fund to the
4 Uncompensated Care Trust Fund established under section 18 of chapter 118G of the General Laws, for the
5 purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year
6 beginning October 1, 2005. The payments shall be made, without further appropriation, to hospitals prior
7 to, and in anticipation of, the payment by hospitals of their gross liability to the Uncompensated Care Trust

8 Fund. The comptroller shall transfer from the Uncompensated Care Trust Fund to the General Fund not
9 later than June 30, 2006, the amount of the transfer authorized in this section and any allocation of the
10 transfer as certified by the commissioner of the division of health care finance and policy.

Medicaid – Maximization of Third Party and Federal Revenue

1 SECTION 89. Notwithstanding any general or special law to the contrary, state agencies and
2 direct and subcontracted providers of health-related services, including purchase-of-service providers
3 financed from appropriation items for any state agency, shall maximize coverage under Title XIX of the
4 Social Security Act and all other federal, state, and private health insurance coverage available to offset
5 costs to the commonwealth. The agencies or providers shall collect information from clients, or from the
6 parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be
7 eligible for medical assistance benefits under chapter 118E of the General Laws or are beneficiaries of any
8 health insurance policy. The agencies or providers shall forward client information collected under this
9 section to the executive office of health and human services and this data shall only be used to match
10 against available databases for the purpose of identifying all sources of potential payment for health
11 services or health insurance coverage. As required or permitted by federal law, the executive office of
12 health and human services shall return the results of any data matches to the originating agency, which
13 shall take the appropriate action to ensure that costs to the commonwealth are minimized. These actions
14 shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party
15 sources. The executive office of administration and finance may grant an agency or provider an exemption
16 from this section for good cause. The executive office of health and human services and the division of
17 procurement within the executive office of administration and finance shall review regulations, contracting
18 forms, service delivery reports, and uniform financial reporting requirements to determine what changes are
19 necessary for the successful implementation of this section.

Caseload Capacity for MassHealth Dentists

1 SECTION 90. Notwithstanding any special or general law to the contrary, the executive office of
2 health and human services may promulgate regulations allowing any dentist participating in the
3 MassHealth program to limit the number of MassHealth patients in his or her practice in accordance with
4 standards or procedures to be established by the executive office of health and human services.

Distressed Provider Expendable Trust Fund

1 SECTION 91. Notwithstanding any general or special laws to the contrary, in fiscal year 2006,
2 expenditures from the Distressed Provider Expendable Trust Fund, as established by chapter 241 of the acts
3 of 2004, shall be dedicated to efforts that are designed to improve and enhance the ability of distressed
4 community providers to serve populations in need more efficiently and effectively, including, but not
5 limited to, the ability to provide community-based care, clinical support and care coordination services,
6 pharmacy management services, or other efforts to create effective coordination between hospital care and
7 ambulatory care sites in the community. The secretary of health and human services shall develop
8 emergency regulations governing the recommended uses of the fund in partnership with the Massachusetts
9 League of Community Health Centers and the Massachusetts Hospital Association. The secretary shall file
10 a report not later than September 1, 2005 to the speaker of the house of representatives, the president of the
11 senate and to the house and senate committees on ways and means outlining the providers to be funded
12 during fiscal year 2006 from the fund, the amount expended or to be expended for each provider under this
13 section and the extent to which any portion of such expenditures are eligible for federal reimbursement.
14 Any federal reimbursements received by the commonwealth for expenditures made from the fund shall be
15 deposited into the fund.

Nursing Facility Audit Disallowances

1 SECTION 92. Notwithstanding any general or special law to the contrary, in the event the
2 division of health care finance and policy conducts or utilizes an audit of nursing facilities' calendar year
3 2002 base year costs for the purpose of reducing rates below levels that would be in effect in the absence of
4 the audit, the division shall disallow no more than \$22 million in the aggregate in fiscal year 2006 rates

5 unless: (1) 50 per cent of total nursing facilities licensed in calendar year 2002 are audited in an identical
6 full-scope manner as applied in the division's originally proposed 114.2 CMR 6.00 Standard Payments to
7 Nursing Facilities regulation, issued in May 2004; (2) each audited nursing facility has the right to appeal
8 to the division of administrative law appeals and that an increase in the aggregate \$22 million disallowance
9 amount shall not take effect until each such appeal is completely adjudicated; (3) the division conducts a
10 public hearing outlining the methodology and reason for disallowing more than \$22 million aggregate
11 amount, taking into account the impact on patient care; and (4) in no event shall the division, in conducting
12 any base year audit permitted by this section, disallow any cost claimed by a provider if the cost is required
13 to be incurred by the provider under any federal or state law or regulation, is recognized as an allowable
14 cost under any federal or state law or regulation or has been adjudicated to be an allowable cost in any
15 proceeding arising under the Medicare or Medicaid programs.

Quincy Medical Center Intergovernmental Transfer

1 SECTION 93. Notwithstanding any general or special law or regulation to the contrary, including
2 section 407 of chapter 149 of the acts of 2004, which is superceded by this section, the executive office of
3 health and human services shall expend, subject to the availability of federal financial participation, an
4 amount not less than \$34,984,000 and not more than \$40,000,000 from the medical assistance
5 intergovernmental transfer account in the Uncompensated Care Trust Fund and from allowable certified
6 public expenditures made by the city of Quincy for the benefit of Quincy Medical Center (the "hospital" for
7 purposes of this section) for supplemental title XIX rate payments to the hospital. The payments shall be
8 established in accordance with title XIX of the federal Social Security Act or any successor federal statute,
9 any regulations promulgated thereunder, and the commonwealth's title XIX state plan. No payment
10 authorized under this section shall be made to the hospital unless: the hospital has executed the executive
11 office's then-current acute hospital request for applications and contract; the city of Quincy makes an
12 intergovernmental funds transfer of not more than \$5.393 million; the hospital agrees that the portion of the
13 payment it receives pursuant to this section that is attributable to the city's intergovernmental funds transfer
14 and the federal matching funds associated with such transfer will, when received by the hospital, not be
15 transferred to any third party other than an agent of the hospital for investment purposes or in the ordinary
16 course of the hospital's providing patient care services; and the hospital repays directly to the
17 commonwealth, rather than to the city of Quincy, the entire amount of the state loan due from the city of
18 Quincy pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003. The
19 hospital's repayment of the state loan as provided for in this section shall extinguish the city's obligation to
20 the commonwealth under said chapters 101 and 47. The city's intergovernmental funds transfer and the
21 proceeds of the hospital's repayment of the state loan, as provided for in this section, shall be credited to
22 the medical assistance intergovernmental funds transfer account in the Uncompensated Care Trust Fund
23 and shall be administered in accordance with the provisions of this section and of paragraph (o) of section
24 18 of chapter 118G of the General Laws. Upon the hospital's payment of the state loan, the comptroller
25 shall transfer from said account an amount that is not less than \$2,662,200 for payment to a municipality in
26 Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. The
27 hospital's repayment of the state loan, as provided for in this section, and the division's making the
28 supplemental payments authorized by this section may occur simultaneously. Any federal funds received
29 by the commonwealth as a result of supplemental payments made to the hospital through certified public
30 expenditures of the city of Quincy shall be dedicated for a payment to the city of Quincy.

Disproportionate Share Hospitals FFP for DMH/DPH Facilities

1 SECTION 94. Notwithstanding any general or special law to the contrary, the department of
2 mental health, the department of public health, the executive office of health and human services and the
3 division of health care finance and policy shall take any appropriate action to obtain the maximum amount
4 of federal financial participation available for amounts paid for low-income care costs at those mental
5 health and public health facilities determined to be disproportionate share hospitals in accordance with
6 requirements of Title XIX of the Social Security Act. Appropriate action may include, but shall not be
7 limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established
8 by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share
9 payment adjustments to qualifying mental health and public health facilities under relevant division of

10 health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare
11 and Medicaid services. The executive office of health and human services, the department of public health
12 and the department of mental health may expend amounts transferred to them from a separate account
13 within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a
14 result of actions taken under this section shall be deposited in the General Fund. The state treasurer and the
15 comptroller shall establish such procedures as may be necessary to effectuate this section, including
16 procedures for the proper accounting and expenditure of funds under this section.

Residential Care Commission

1 SECTION 95. There shall be a special commission on residential care facilities, also known as
2 rest homes, in the commonwealth. The commission shall study the role that residential care facilities play
3 in the continuum of long-term care, identify the availability of residential care facilities relative to the need
4 for these services, and the adequacy of public reimbursement for residential care facilities. The commission
5 shall also study the roles of state agencies in residential care and recommend policies and procedures to
6 coordinate effective communication and oversight among the various agencies with responsibility for
7 residential care. The commission shall make recommendations relative to the funding of and methodology
8 used in determining rates paid to residential care facilities. The commission shall consist of the following
9 members: the house and senate chairpersons of the joint committees on elder affairs and health care
10 financing, a member of the house of representatives appointed by the minority leader of the house and a
11 member of the senate appointed by the minority leader of the senate; the director of the division of health
12 care quality at the department of public health; the commissioner of the division of health care finance and
13 policy, or the commissioner's designee; the commissioner of the department of transitional assistance, or
14 the commissioner's designee; the secretary of the executive office of elder affairs, who shall chair the
15 commission; and 2 representatives from each of the following organizations: Massachusetts Aging Services
16 Association and the Massachusetts Association of Residential Care Homes. The commission shall convene
17 no later than 60 days after the effective date of this act. The commission shall report its findings and
18 recommendations to the joint committees on elder affairs and on health care financing and to the house and
19 senate committees on ways and means by March 1, 2006.

Public Higher Education Tuition Retention

1 SECTION 96. On or before October 15, 2005, the comptroller shall certify the amount of tuition
2 revenue from the University of Massachusetts and each state and community college remitted to the
3 General Fund from tuition paid during fiscal year 2005 and shall report this amount to each public
4 institution of higher education, the board of higher education, the secretary of administration and finance,
5 the house and senate committees on higher education, and the house and senate committees on ways and
6 means. On or before November 1, 2005, the comptroller shall reduce the amounts authorized for
7 expenditure in this act to the university and each state and community college by an amount equal to the
8 tuition remitted by that campus to the General Fund for fiscal year 2005, as certified by the comptroller.

9 Notwithstanding any general or special law to the contrary, all tuition and fees received by the
10 boards of trustees of the university and of each state and community college in the commonwealth shall be
11 retained by each respective board in its own revolving trust fund or funds and shall be expended as each
12 respective board may direct. Any balance in the trust fund or funds at the close of a fiscal year shall be
13 available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

14 Notwithstanding any general or special law to the contrary, for employees of public higher
15 education institutions who are paid from tuition retained under this section, section 633 of chapter 26 of the
16 acts of 2003, as amended by section 242 of chapter 149 of the acts of 2004, or section 160 of chapter 352 of
17 the acts of 2004, fringe benefits shall be funded as if those employees' salaries were supported by state
18 appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition
19 retained by the boards of trustees of public higher education institutions as a direct result of the
20 implementation of these sections.

Autism Services Waiver

1 SECTION 97. The secretary of health and human services shall, within 3 months after the
2 effective date of this act, apply to the federal Centers for Medicare and Medicaid Services for a home and
3 community-based services waiver under section 1915(c) of the federal Social Security Act, 42 U.S.C.,
4 section 1396n, to allow eligible children with autism spectrum disorder to receive waiver services to
5 support the children in their homes and communities. The waiver application shall provide services for
6 children with autism spectrum disorder who are institutionalized or at risk of institutionalization. Autism
7 spectrum disorder includes the following disorders as defined in the Diagnostic and Statistical Manual of
8 Mental Disorders, fourth edition (DSM-IV, 2000): autistic disorder, Asperger's disorder, pervasive
9 developmental disorder not otherwise specified, childhood disintegrative disorder and Rhetts's Syndrome.
10 The waiver application shall include intensive in-home intervention services for children with autism
11 spectrum disorder and any other services determined appropriate to support children with autism spectrum
12 disorder in their homes and communities. The waiver application shall specify the required credentials for
13 providers of services covered by the waiver including the credentials required for supervisors of direct care
14 providers and direct care providers. The waiver application shall ensure that the process and procedures for
15 applying for waiver services are fully accessible to families of children with autism spectrum disorder who
16 are from linguistically and culturally diverse communities. Services under the waiver shall be coordinated
17 with services provided by school committees under chapters 71B and 111G of the General Laws. Nothing
18 in this section shall affect or limit a school district's responsibility to provide all services, including home-
19 based services, required pursuant to said chapter 71B and federal law, including 20 U.S. C. sections 1400 to
20 1487, inclusive, and 29 U.S.C. section 794.

21 On January 15, 2006, and annually thereafter, the secretary of
22 health and human services shall submit a report to the house and senate committees on ways and means and
23 the joint committees on education and health care finance on the status of the waiver application and on the
24 operation of the waiver, once obtained. The report on the operation of the waiver shall include, but not be
25 limited to, a description of: the number of children receiving services under the waiver, the race and
26 primary language of the children served and their families, the types of services provided, and any available
27 information pertaining to the impact and effectiveness of the waiver.

Pools, Beaches and Parks Season Requirements

1 SECTION 98. The department of conservation and recreation shall ensure that all pools and
2 aspects of all pools, freshwater and saltwater beaches, parks and recreational facilities under the jurisdiction
3 of the department shall remain open for the full summer season, from Memorial day weekend to Labor day
4 weekend, inclusive, and that the beaches have their full amount of required maintenance and upkeep.

Pension Line Item Language

1 SECTION 99. The amounts transferred pursuant to section 5B of chapter 29 of the General Laws
2 shall be made available for the commonwealth's Pension Liability Fund established under section 22 of
3 chapter 32 of the General Laws. The amounts transferred pursuant to said section 5B of said chapter 29
4 shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement
5 benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated
6 with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of
7 local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of
8 said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984.
9 Subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city,
10 town, county and district shall verify the cost thereof and the treasurer may make such payments upon a
11 transfer of funds to reimburse certain cities and towns for pensions to retired teachers and including any
12 other obligations which the commonwealth has assumed on behalf of any retirement system other than the
13 state employees' or state teachers' retirement systems and including the commonwealth's share of the
14 amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred
15 pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All
16 payments for the purposes described in this item shall be made only pursuant to distribution of monies from
17 the fund, and any such distribution and the payments for which distributions are required shall be detailed
18 in a written report filed quarterly by the commissioner of administration with the house and senate
19 committees on ways and means and the joint committee on public service in advance of such distribution.

20 Such distributions shall not be made in advance of the date on which a payment is actually to be made. The
21 state retirement board may expend an amount for the purposes of the higher education coordinating
22 council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the
23 extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount necessary
24 to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension
25 Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded pension
26 liability of the commonwealth.

Non Contributory Pension

1 SECTION 100. Notwithstanding any general or special law to the contrary, pension benefits
2 funded through item 0612-2000 in fiscal year 2004 shall be funded from the Pension Reserves Investment
3 Trust fund, as established by subdivision (8) of section 22 of chapter 32 of the General Laws. The state
4 treasurer shall report to the house and senate committees on ways and means not later than November 15,
5 2005, on the benefits funded pursuant to this section. This report shall list the amount of benefits received
6 by each individual through this funding in fiscal year 2005 and the amount of benefits projected to be
7 received by each individual through this funding in fiscal year 2006.

Educational Transportation Study

1 SECTION 101. The executive office of transportation shall perform a comprehensive study of
2 student transportation, in cooperation with the department of education, to determine a more cost-effective
3 approach to transporting students to and from school and other school-related activities including, but not
4 limited to, examining ways to improve coordination of bus routes and other methods of transport within
5 and among school districts, evaluating the feasibility of establishing a school transportation authority to
6 oversee educational transportation, a review of the current level of state and local payments for
7 transportation, and an analysis of the need for changes in the laws and regulations relative to school
8 transportation.

Jury List II

1 SECTION 102. (a) The jury commissioner shall establish an administrative records list of the
2 commonwealth's residents 17 years and older for the purpose of testing the feasibility of using such a list
3 for the creation of jury pools. The following state agencies shall provide to the jury commissioner, in
4 electronic form, a list of residents 17 years and older contained in their respective databases: the state
5 secretary, registry of motor vehicles, department of revenue, department of transitional assistance and
6 division of unemployment assistance. In addition, cities and towns that conduct an annual census shall
7 provide such data and all public and private colleges and universities shall provide such data from
8 enrollment records. The lists shall contain, names, residential addresses, mailing addresses and dates of
9 birth, to the extent that they possess this information, in a format to be specified by the jury commissioner.
10 In those cases where a federal waiver or authorization is needed in order to provide this information, each
11 agency or entity shall take all necessary steps to seek such authorization or waiver. No information shall be
12 provided to the jury commissioner beyond that required to create the administrative records list. The jury
13 commissioner shall treat the lists and the information contained in them as confidential to the extent
14 required by law and none of these lists or information shall be public records. Nothing shall be included in
15 any printed administrative records list that would indicate the source from which the information on any
16 individual resident was derived. The commissioner may secure and use additional lists from non-
17 governmental institutions and sources in order to create the administrative records list. The commissioner
18 shall provide, in electronic form, a copy of the administrative records list to the state secretary for purposes
19 of testing its use to maintain voter registration lists and testing its use as a source for street lists for the
20 cities and towns of the commonwealth. Testing of the administrative records list under this section shall
21 not replace or alter any requirement of present law for creating jury pools, maintaining voting lists or
22 establishing street lists, until further act of the general court. The jury commissioner and the state
23 secretary shall report their findings and recommendations based on the testing required by this section to
24 the clerks of the senate and house of representatives not later than June 30, 2006.

25 (b) To advise the jury commissioner and the state secretary in carrying out subsection (a), there
26 shall be an administrative records census task force, which shall consist of the jury commissioner or her
27 designee, the state secretary or his designee, the secretary of administration and finance or his designee and
28 1 person appointed by each of the president of the senate, the speaker of the house of representatives, the
29 Massachusetts Municipal Association, the Massachusetts City Clerks Association and the Massachusetts
30 Town Clerks Association. The chair of the task force shall rotate annually among the jury commissioner,
31 the state secretary, and the secretary of administration and finance or their respective designees. The task
32 force shall consult persons with appropriate technical expertise and may ask them to attend task force
33 meetings. The task force shall meet as often as necessary, but at least once every 6 months.

Special Commission on the Department of Youth Services

1 SECTION 103. There shall be a special commission to study the department of youth services.
2 The commission shall consist of 11 members, including 3 members appointed by the senate president,
3 including the senate chair of the joint committee on the judiciary, 3 members appointed by the speaker of
4 the house of representatives, including the house chair of the joint committee on the judiciary, 3 members
5 appointed by the governor, one of whom shall have research expertise on juvenile offenders and one of
6 whom shall be an advocate for youthful offenders, and 2 members appointed by the president of the
7 Massachusetts AFL-CIO. The commission shall study the ways in which the population served by the
8 department of youth services has changed over the past 25 years and how these changes have affected the
9 provision of services. The commission shall produce a report that shall include, but not be limited to, the
10 following: (a) a profile of the youthful offender population currently served by the department, including
11 information about the age of offenders and a breakdown of the types of crimes committed by offenders; (b)
12 an assessment of the current job descriptions and qualifications, salary ranges and caseload levels for direct
13 service workers in the department; (c) recommendations for staffing changes, if any, needed to meet the
14 needs and demands of the department's youthful offender population, including changes to job
15 descriptions, job qualifications, salary levels and caseload levels; (d) an evaluation of mental health and
16 substance abuse issues among the youthful offender population and recommendations about how best to
17 address those issues; (e) an evaluation of the educational needs of, and the educational services available to,
18 youthful offenders and how best to provide the services to meet those needs; (f) an evaluation of
19 management practices and recommendations for changes, if any, needed to provide the most cost-effective
20 level of service possible; and (g) an estimate of funding levels needed to implement the recommendations
21 of the report.

22 The commission shall conduct at least 2 public hearings, one of which shall be in Boston and one
23 of which shall be in Worcester, and take public testimony on these issues. At least 1 of the hearings shall
24 be held in the evening. The commission shall give public notice of the dates, times and locations of the
25 hearings at least two weeks prior to the hearing and shall encourage the broadest possible public input and
26 participation. The commission shall submit its report and recommendations to the house and senate
27 committees on ways and means, the joint committee on the judiciary, the joint committee on children and
28 families and the joint committee on public safety by December 31, 2005.

Boston Harbor Beaches Commission

1 SECTION 104. There shall be a special commission on the future of the metropolitan beaches
2 under the jurisdiction of the department of conservation and recreation. The commission shall review the
3 effectiveness of the department's "Back to the Beaches" program and shall undertake a comprehensive
4 study examining the existing maintenance, operational and infrastructure needs for those beaches,
5 including, but not limited to, any security and capital-intensive repairs necessary to ensure future
6 recreational use of those beaches. The commission shall also examine best management practices and
7 funding alternatives for each beach, including, but not limited to, public-private partnerships, non-profit
8 entities or other financial means that shall ensure access, quality recreational activities, programming, and
9 improved water quality and beautification efforts at any of those beaches. Said commission shall also
10 analyze and make recommendations on alternatives and methods to improve access from metropolitan
11 beaches to the Boston harbor islands.

12 For the purposes of this section, the beaches shall include, but not be limited to: Malibu beach,
13 Constitution beach, Carson beach, City Point beach, M. Street beach, Pleasure Bay, Savin Hill beach, and
14 Tenean beach in the city of Boston; Nantasket beach in Hull; Nahant beach in the town of Nahant;
15 Winthrop beach in the town of Winthrop; Wollaston beach, Pleasure Bay, and Squantum Point park in the
16 city of Quincy; Revere beach and Short beach in the city of Revere; and Red Rock park and Lynn beach in
17 the city of Lynn.

18 The commission shall consist of 3 members of the house of representatives appointed by the
19 speaker of the house, 1 of whom shall be appointed co-chair of the committee; 3 members of the senate
20 appointed by the senate president, 1 of whom shall be appointed co-chair of the committee; 1 member
21 appointed by the secretary of the executive office of environmental affairs or the secretary's designee; 1
22 member appointed by the commissioner of the department of conservation and recreation or the
23 commissioner's designee; 2 members appointed by the mayor of the city of Boston, of whom each shall be
24 a resident of the East Boston section of the city of Boston, a resident of the Dorchester section of the city of
25 Boston or a resident of the South Boston section of the city of Boston; 6 members who are appointed by the
26 chief executives or board of selectmen from the cities and towns of Hull, Nahant, Quincy, Revere, Lynn,
27 and Winthrop; 1 member appointed by the Boston Foundation; 1 member appointed by the Greater Boston
28 Chamber of Commerce; and 1 member appointed by the Boston University School of Public Management.

29 In carrying out the study, the commission shall hold hearings within close proximity to Boston
30 harbor beaches to solicit testimony from interested stakeholders, including but not limited to: the executive
31 office of environmental affairs, the department of conservation and recreation, the Massachusetts Water
32 Resources Authority, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority,
33 the Boston Harbor Association, the Boston Harbor Islands Alliance, Save The Harbor/Save The Bay, local
34 municipalities, non-profit organizations, friends' groups, and business and community leaders.

35 The chairs of the commission may expend funds from item 9700-0020 for the following purposes:
36 to hire a coordinator for the work of the commission, to hire consultants to examine existing resources and
37 to assist with public hearings and planning efforts, to research best practices in the commonwealth and
38 other states, and other such services as the chairs find necessary to conduct this study.

39 The commission shall submit a report containing its recommendations by filing said report with the
40 clerks of the senate and house of representatives, and the senate and house committees on ways and means
41 not later than April 30, 2006.

Beach Erosion Special Commission

1 SECTION 105. There shall be a special commission to study the ecological and environmental
2 impact of beach erosion in the commonwealth. The commission shall study the beaches along the coast of
3 the commonwealth with the goals of assessing the scope of the problem of beach erosion and drafting
4 legislative recommendations for remediation. The commission shall review strategies pursued by other
5 coastal states including, but not limited to, how other states implement and fund remedial efforts. The
6 commission shall be comprised of 3 members of the house of representatives appointed by the speaker of
7 the house, 1 of whom shall be appointed co-chair of the committee; 3 members of the senate appointed by
8 the senate president, 1 of whom shall be appointed co-chair of the committee; 1 member appointed by the
9 office of coastal zone management, 1 member appointed by the department of environmental protection,
10 and 1 member appointed by the department of fish and game.

11 The commission shall convene its first meeting by September 15, 2005 and shall deliver its report
12 and legislative recommendations, if any, to the joint committees on tourism, arts and cultural development,
13 and environment, natural resources and agriculture, and the house and senate committees on ways and
14 means by February 15, 2006.

MWRA Fee Exemption II

1 SECTION 106. Section 8 shall take effect as of July 1, 2004.

Repeal of Children's and Seniors' Health Care Assistance Fund Effective Date

1 SECTION 107. Section 9 shall take effect on June 30, 2005.

Children's and Seniors' Health Care Assistance Fund Transfer

1 SECTION 108. As of July 1, 2005, the comptroller shall transfer any remaining balance in the
2 Children's and Seniors' Health Care Assistance Fund to the General Fund.

Effective Date

1 SECTION 109. Except as otherwise specified, this act shall take effect on July 1, 2005.